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JOHNS HOPKINS UNIVERSITY STUDIES

IN

HISTORICAL AND POLITICAL SCIENCE

**HERBERT B. ADAMS, Editor**

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History is past Politics and Politics present History.—*Freeman*

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## VOLUME II

# INSTITUTIONS AND ECONOMICS

[redacted]

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I-II

# METHODS

OF

# HISTORICAL STUDY

"Das Wesen der historischen Methode ist forschend zu verstehen.—*Droysen.*"

"The way to that which is general is through that which is special."—*Yäger.*

"It is a favorite maxim of mine that history, while it should be scientific in its method, should pursue a practical object."—*Seeley.*

"Das was heute Politik ist, gehört morgen der Geschichte an."—*Droysen.*

"Learn the Past and you will know the Future."—*Confucius.*

"C'est une vérité banale que l'étude de l'histoire est indispensable aux peuples libres, appelés à se gouverner eux-mêmes. La connaissance du passé fait seule bien comprendre le présent et aide à éviter les écueils sur lesquels nos ancêtres ont fait naufrage. En relevant l'enseignement supérieur de l'histoire, on ne rendrait pas seulement service à la science, mais aussi à la patrie."—*Paul Frédéricq.*

"*Scientia pro Patria.*"—Motto of the *Société Historique et Cercle Saint-Simon, Paris.*

JOHNS HOPKINS UNIVERSITY STUDIES
IN
HISTORICAL AND POLITICAL SCIENCE

HERBERT B. ADAMS, Editor

History is past Politics and Politics present History — *Freeman*

SECOND SERIES

I-II

# METHODS
OF
# HISTORICAL STUDY

By HERBERT B. ADAMS, Ph. D.

BALTIMORE
N. MURRAY, PUBLICATION AGENT, JOHNS HOPKINS UNIVERSITY
January and February, 1884

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BALTIMORE.

UNIV. OF CALIFORNIA

# I.

# SPECIAL METHODS OF HISTORICAL STUDY[1]

### AS PURSUED AT THE JOHNS HOPKINS UNIVERSITY AND AT SMITH COLLEGE.

THE main principle of historical training at the Johns Hopkins University is to encourage independent thought and research. Little heed is given to text-books, or the mere phraseology of history, but all stress is laid upon clear and original statements of fact and opinion, whether the student's own or the opinion of a consulted author. The comparative method of reading and study is followed by means of assigning to individual members of the class separate topics, with references to various standard works. These topics are duly reported upon by the appointees, either *ex tempore*, with the aid of a few notes, or in formal papers, which are discussed

[1] This article contains extracts from a paper on "History: Its Place in American Colleges," originally contributed in October, 1879, to *The Alumnus*, a literary and educational quarterly then published in Philadelphia, but now suspended and entirely out of print. A few extracts have also been made from an article on "Co-operation in University work," in the second number of *The Johns Hopkins University Studies in Historical and Political Science*. But the body of the article is new, and was written at the request of Dr. G. Stanley Hall, as a contribution to the "Methods of History," Vol. I. of the Pedagogical Library, Boston: Ginn, Heath & Co., 1883. By the kind permission of the publishers, the chapter is here reproduced in connection with a paper on "New Methods of Study in History," which is now for the first time printed, but which is the natural outgrowth of the original paper and, like that, suggested by Dr. G. Stanley Hall, for pedagogical purposes.

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at length by the class. The oral method has been found to afford a better opportunity than essays for question and discussion, and it is in itself a good means of individual training, for the student thereby learns to think more of substance than of form. Where essays are written, more time is usually expended on style than on the acquisition of facts. If the student has a well-arranged brief, like a lawyer's, and a head full of ideas, he will express himself at least intelligibly, and clearness and elegance will come with sufficient practice. The *ex tempore* method, with a good brief or abstract (which may be dictated to the class) is one of the best methods for the teacher as well as for the student. The idea should be, in both cases, to personify historical science in the individual who is speaking upon a given topic. A book or an essay, however symmetrical it may be, is often only a fossil, a lifeless thing; but a student or teacher talking from a clear head is a fountain of living science. A class of bright minds quickly discern the difference between a phrase-maker and a man of ideas.

As an illustration of the kind of subjects in mediæval history studied in 1878, independently of any text-book, by a class of undergraduates, from eighteen to twenty-two years of age, the following list of essay-topics is appended: —

1. Influence of Roman Law during the middle ages. (Savigny, Sir Henry Maine, Guizot, Hadley).
2. The kingdom of Theodoric, the East Goth. (Milman, Gibbon, Freeman).
3. The conversion of Germany. (Merivale, Milman, Trench).
4. The conversion of England. (Bede, Milman, Freeman, Montalembert, Trench).
5. The civilizing influence of the Benedictine Monks. (Montalembert, Gibbon, Milman).
6. Cloister and cathedral schools. (Einhard, Guizot, Mullinger).
7. The origin and character of mediæval universities. (Green, History of England; Lacroix; various university histories).
8. Modes of legal procedure among the early Teutons. (Waitz, J. L. Laughlin, Lea).
9. Report of studies in "Anglo-Saxon Law." (Henry Adams, *et al*).

10. Origin of Feudalism. Feudal rights, aids, and incidents. (Guizot, Hallam, Stubbs, Digby, Maine, Waitz, Roth).
11. Evils of Feudalism. (Authorities as above).
12. Benefits of Feudalism. (As above).
13. The Saxon Witenagemot and its historical relation to the House of Lords. (Freeman, Stubbs, Hallam, Guizot).
14. Origin of the House of Commons. (Pauli, Creighton, and authorities above stated).
15. Origin of Communal Liberty. (Hegel, Städteverfassung von Italien; Testa, Communes of Lombardy; Wauters, Les libertés communales; Stubbs, Freeman, Guizot, *et al*).

At Smith College, an institution founded at Northampton, Massachusetts, by a generous woman, in the interest of the higher education of her sex, the study of history was pursued by four classes in regular gradation, somewhat after the college model. The First, corresponding to the "Freshman" class, studied oriental or ante-classic history, embracing the Stone Age, Egypt, Palestine, Phœnicia, the empires of Mesopotamia and ancient India. This course was pursued in 1879 by dictations and *ex tempore* lectures on the part of the teacher, and by independent reading on the part of the pupils. The first thing done by the teacher in the introduction to the history of any of the above-mentioned countries, was to explain the sources from which the history of that country was derived, and then to characterize briefly the principal literary works relating to it, not omitting historical novels, like Ebers' "Egyptian Princess," or "Uarda." Afterwards, the salient features, in Egyptian history, for example, were presented by the instructor, under distinct heads, such as geography, religion, art, literature, and chronology. Map-drawing by and before the class was insisted upon; and, in connection with the foregoing subjects, books or portions of books were recommended for private reading. For instance, on the "Geography of Egypt," fifty pages of Herodotus were assigned in Rawlinson's translation. This, and other reading, was done in the so-called "Reference Library," which was provided with all the books that were recommended. An oral account

of such reading was sooner or later demanded from each pupil by the instructor, and fresh points of information were thus continually brought out. The amount of positive fact acquired by a class of seventy-five bright young women bringing together into one focus so many individual rays of knowledge, collected from the best authorities, is likely to burn to ashes the dry bones of any text-book, and to keep the instructor at a white heat.

As an illustration of the amount of reading done *in one term* of ten weeks by this class of beginners in history, the following fair specimen of the lists handed in at the end of the academic year of 1879 is appended. The reading was of course by topics: —

EGYPT.

Unity of History (Freeman).
Geography (Herodotus).
Gods of Egypt (J. Freeman Clarke).
Manners and Customs (Wilkinson).
Upper Egypt (Klunzinger).
Art of Egypt (Lübke).
Hypatia (Kingsley).
Egyptian Princess (Ebers).

PALESTINE.

Sinai and Palestine, 40 pages (Stanley).
History of the Jews (extracts from Josephus).
The Beginnings of Christianity, Chap. VII. (Fisher).
Religion of the Hebrews (J. Freeman Clarke).

PHŒNICIA, ASSYRIA, ETC.

Phœnicia, 50 pages (Kenrick).
Assyrian Discoveries (George Smith).
Chaldean Account of Genesis (George Smith).
Assyrian Architecture (Fergusson).
Art of Central Asia (Lübke).

In the Second, or "Sophomore" class, classic history was pursued by means of the History Primers of Greece and

Rome, supplemented by lectures and dictations, as the time would allow. The Junior class studied mediæval history in much the same way, by text-books (the Epoch Series) and by lectures. Both classes did excellent work of its kind, but it was not the best kind; for little or no stimulus was given to original research. And yet, perhaps, to an outsider, fond of old-fashioned methods of recitation, these classes would have appeared better than the First class. They did harder work, but it was less spontaneous and less scientific. The fault was a fault of method.

With the Senior class the method described as in use at the Johns Hopkins University was tried with marked success. With text-books on modern history as a guide for the whole class, the plan was followed out of assigning to individuals subjects with references for private reading and for an oral report of about fifteen minutes' length. The class took notes on these reports or informal student-lectures as faithfully as on the extended remarks and more formal lectures of the instructor. This system of making a class lecture to itself is, of course, very unequal in its immediate results, and sometimes unsatisfactory; but, as a system of individual training for advanced pupils, it is valuable as a means both of culture and of discipline. Contrast the good to the individual student of any amount of mere text-book memorizing or idle note-taking with the positive culture and wide acquaintance with books, derived *in ten weeks* from such a range of reading as is indicated in the following *bonâ fide* report by one member of the Senior class (1879), who afterwards was a special student of history for two years in the "Annex" at Harvard College, and who in 1881 returned to Smith College for her degree of Ph. D. First are given the subjects assigned to this young woman for research, and the reading done by her in preparation for report to the class; and then is given the list of her general reading in connection with the class work of the term. Other members of the class had other subjects and similar reports: —

I.—SUBJECTS FOR RESEARCH.

1. *Anselm and Roscellinus.*
   Milman's Latin Christianity, Vol. IV., pp. 190–225.
   Ueberweg's History of Philosophy, Vol. I., pp. 271–385.
2. *Platonic Academy at Florence.*
   Roscoe's Life of Lorenzo di Medici, Vol. I., p. 30 *et seq.*
   Burckhardt's Renaissance, Vol. I.
   Villari's Machiavelli, Vol. I., p. 205 *et seq.*
3. *Colet.*
   Seebohm's Oxford Reformers.
4. *Calvin.*
   Fisher's History of the Reformation (Calvin).
   Spalding's History of the Reformation (Calvin).
   D'Aubigné's History of the Reformation, Vol. I., book 2, chap. 7.
5. *Frederick the Great.*
   Macaulay's Essay on Frederick the Great.
   Lowell's Essay on Frederick the Great.
   Ency. Brit. Article on Frederick the Great.
   Menzel's History of Germany (Frederick the Great).
   Carlyle's Frederick the Great (parts of Vols. I., II., III.).
6. *Results of the French Revolution.*
   French Revolution (Epoch Series).

II.—GENERAL READING.

Roscoe's Life of Leo X. (one-half of Vol. I.).
Mrs. Oliphant's Makers of Florence (on cathedral builders, Savonarola, a Private Citizen, Michel Angelo).
Symonds's Renaissance (Savonarola).
Walter Pater's Renaissance (Leonardo da Vinci).
Hallam's Middle Ages (on Italian Republics).
Benvenuto Cellini's Autobiography (about one-half).
Burckhardt's Renaissance (nearly all).
Vasari's Lives of the Painters (da Vinci, Alberti).
Lowell's Essay on Dante.
Carlyle's Essay on Dante.
Trench's Mediæval Church History (Great Councils of the West, Huss and Bohemia, Eve of the Reformation).
Fisher's History of the Reformation (Luther).
White's Eighteen Christian Centuries (16th).
Macaulay's Essay on Ranke's History of the Popes.
Lecky's European Morals (last chapter).
Seebohm's Era of the Protestant Revolution.
Froude's Short Studies on Great Subjects (studies on the times of Erasmus and Luther, the Dissolution of the Monasteries).
Spalding's History of the Reformation (chapter on Luther).

Carlyle's Essay on Luther and Knox.
Hosmer's German Literature (chapters on Luther, Thirty Years' War, Minnesingers and Mastersingers).
Gardiner's Thirty Years' War.
Morris's Age of Anne.
George Eliot's Romola (about one-half.)
Hawthorne's Marble Faun (parts).

It is but fair to say in reference to this vast amount of reading, that it represents the chief work done by the above-mentioned young lady during the summer term, for her class exercises were mainly lectures requiring little outside study. The list will serve not merely as an illustration of Senior work in history at Smith College, but also as an excellent guide for a course of private reading on the *Renaissance and Reformation.* No more interesting or profitable course can be followed than a study of the Beginnings of Modern History. With Symonds's works on the "Renaissance in Italy," Burckhardt's "Civilization of the Period of the Renaissance" (English translation), and Seebohm's "Era of the Protestant Revolution" (Epoch series) for guide-books, a college instructor can indicate to his pupils lines of special investigation more grateful than text-book "cramming," more inspiring than lectures or dictations. The latter, though good to a certain extent, become deadening to a class when its members are no longer stimulated to original research, but sink back in passive reliance upon the authority of the lecturer. That method of teaching history which converts bright young pupils into note-taking machines is a bad method. It is the construction of a poor text-book at the expense of much valuable time and youthful energy. Goethe satirized this, the fault of German academic instruction, in Mephistopheles' counsel to the student, who is advised to study well his notes, in order to see that the professor says nothing which he hasn't said already: —

> Damit ihr nachher besser seht,
> Dass er nichts sagt, als was im Buche steht;
> Doch euch des Schreibens ja befleisst,
> Als dictirt' euch der Heilig' Geist!

The simple-minded student assents to this counsel, and says it is a great comfort to have everything in black and white, so that he can carry it all home. But no scrap-book of facts can give wisdom, any more than a tank of water can form a running spring. It is, perhaps, of as much consequence to teach a young person *how* to study history as to teach him history itself.

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The above notes were written in the summer of 1879, and were published in October of that year, after the author's return to Baltimore. Subsequent experience at Smith College, in the spring terms of 1880 and 1881, when the lecturer's four years' partial connection with Smith College terminated, showed the necessity of a reference library for each class, the resources of the main collection in the reading-room having proved inadequate to the growing historical needs of the college. Instead of buying text-books, the members of each class, with the money which text-books would have cost, formed a library fund, from which a book committee purchased such standard works (often with duplicate copies) as the lecturer recommended. The class libraries were kept in places generally accessible; for example, in the front halls of the "cottage" dormitories. Each class had its own system of rules for library administration. Books that were in greatest demand could be kept out only one or two days. The amount of reading by special topics accomplished in this way in a single term was really most remarkable. Note-books with abstracts of daily work were kept, and finally handed in as a part of the term's examination. Oral examinations upon reading, pursued in connection with the lectures, were maintained throughout the term, and, at the close, a written examination upon the lectures and other required topics, together with a certain range of optional subjects, fairly tested the results of this voluntary method of historical study. The amount of knowledge acquired in this

way would as much surpass the substance of any system of lectures or any mere text-book acquisitions as a class library of standard historians surpasses an individual teacher or any historical manual. This method of study is practicable in any high-school class of moderate size. If classes are generous, they will leave their libraries to successors, who can thus build up a collection for historical reference within the school itself, which will thus become a seminary of living science.

A development of the above idea of special libraries may be seen in the foundation, at the Johns Hopkins University, in 1881–2, of a special library for the study of American Institutional History by college graduates. There was nothing really new about the idea except its application. German universities have their *seminarium* libraries distinct from the main university library, although often in the same building. In Baltimore, the special library was established in the lecture-room where the class meets. The design of the collection was to gather within easy reach the chief authorities used in class work and in such original investigations as were then in progress. The special aim, however, was to bring together the statutory law and colonial archives of the older States of the Union, together with the journals of Congress, American State papers, and the writings and lives of American statesmen. The statutes of England and parliamentary reports on subjects of particular interest were next secured. Then followed, in December, 1882, the acquisition of the Bluntschli Library of three thousand volumes, with many rare pamphlets and Bluntschli's manuscripts, including his notes taken under Niebuhr the historian, and under Savigny the jurist. This library of the lamented Dr. Bluntschli, professor of constitutional and international law in Heidelberg, was presented to the Johns Hopkins University by German citizens of Baltimore; and it represents, not only in its transfer to America, but in its very constitution, the internationality of modern science. Here is a library, which, under the care of a great

master, developed from the narrow chronicles of a Swiss town and canton into a library of cosmopolitan character, embracing many nations in its scope. Into this inheritance the Seminary Library of American Institutional History has now entered. Although the special work of the Seminary will still be directed toward American themes, yet it will be from the vantage-ground of the Bluntschli Library, and with the knowledge that this great collection was the outgrowth of communal studies similar to those now in progress in Baltimore.

A word may be added in this connection touching the nature of graduate-work in history at the Johns Hopkins University. What was said in the early part of this article applied only to undergraduates, who develop into the very best class of graduate students now present at the University. The idea of a co-operative study of American local institutions, by graduate students representing different sections of country, evolved very naturally from the Baltimore environment. Germinant interest in the subject originated in a study of New England towns, in a spring sojourn for four years at Smith College, Northampton, Mass., and in summer tours along the New England coast; but the development of this interest was made possible by associations in Baltimore with men from the South and the West, who were able and willing to describe the institutions of their own States for purposes of comparison with the institutions of other States. Thus it has come about that the parishes, districts, and counties of Maryland, Virginia, and the Carolinas are placed historically side by side with the townships of the West and the towns and parishes of New England; so that, by and by, all men will see how much these different sections have in common.

There is a great variety of subjects pertaining to American local life in its rural and municipal manifestations. Not only the history of local government, but the history of schools, churches, charities, manufactures, industries, prices, economics, municipal protection, municipal reforms, local taxation, repre-

sentation, administration, poor laws, liquor laws, labor laws, and a thousand and one chapters of legal and social history are yet to be written in every State. Johns Hopkins students have selected only a few topics like towns, parishes, manors, certain state systems of free schools, a few phases of city government, a few French and Indian villages in the Northwest, certain territorial institutions, Canadian feudalism, the town institutions of New England (to a limited extent); but there is left historical territory enough for student immigration throughout the next hundred years. The beauty of science is that there are always new worlds to discover. And at the present moment there await the student pioneer vast tracts of American institutional and economic history almost as untouched as were once the forests of America, her coal measures and prairies, her mines of iron, silver, and gold. Individual and local effort will almost everywhere meet with quick recognition and grateful returns. But scientific and cosmopolitan relations with college and university centres, together with the generous co-operation of all explorers in the same field, will certainly yield the most satisfactory results both to the individual and to the community which he represents.

It is highly important that isolated students who desire to co-operate in this kind of work should avail themselves of the existing machinery of local libraries, the local press, local societies, and local clubs. If such things do not exist, the most needful should be created. No community is too small for a book club and for an association of some sort. Local studies should always be connected in some way with the life of the community, and should always be used to quicken that life to higher consciousness. A student, a teacher, who prepares a paper on local history or some social question, should read it before the village lyceum or some literary club or an association of teachers. If encouraged to believe his work of any general interest or permanent value, he should print it in the local paper or in a local magazine, perhaps an educa-

tional journal, without aspiring to the highest popular monthlies, which will certainly reject all purely local contributions by unknown contributors. It is far more practicable to publish by local aid in pamphlet form or in the proceedings of associations and learned societies, before which such papers may sometimes be read.

From a variety of considerations, the writer is persuaded that one of the best introductions to history that can be given in American high schools, and even in those of lower grade, is through a study of the community in which the school is placed. History, like charity, begins at home. The best American citizens are those who mind home affairs and local interests. "That man's the best cosmopolite who loves his native country best." The best students of universal history are those who know some one country or some one subject well. The family, the hamlet, the neighborhood, the community, the parish, the village, town, city, county, and state are historically the ways by which men have approached national and international life. It was a preliminary study of the geography of Frankfort-on-the-Main that led Carl Ritter to study the physical structure of Europe and Asia, and thus to establish the new science of comparative geography. He says: "Whoever has wandered through the valleys and woods, and over the hills and mountains of his own state, will be the one capable of following a Herodotus in his wanderings over the globe." And we may say, as Ritter said of the science of geography, the first step in history is to know thoroughly the district where we live. In America, Guyot represented for many years this method of teaching geography. Huxley, in his Physiography, has introduced pupils to a study of Nature as a whole, by calling attention to the physical features of the Thames valley and the wide range of natural phenomena that may be observed in any English parish. Humboldt long ago said in his Cosmos: "Every little nook and shaded corner is but a reflection of the whole of Nature." There is something

very suggestive and very quickening in a philosophy of Nature and history which regards every spot of the earth's surface, every pebble, every form of organic life, from the lowest mollusk to the highest phase of human society, as a perfect microcosm, perhaps an undiscovered world of suggestive truth. But it is important to remember that all these things should be studied in their widest relations. Natural history is of no significance if viewed apart from Man. Human history is without foundation if separated from Nature. The deeds of men, the genealogy of families, the annals of quiet neighborhoods, the records of towns, states, and nations are *per se* of little consequence to history unless in some way these isolated things are brought into vital connection with the progress and science of the world. To establish such connections is sometimes like the discovery of unknown lands, the exploration of new countries, and the widening of the world's horizon.

American local history should be studied as a contribution to national history. This country will yet be viewed and reviewed as an organism of historic growth, developing from minute germs, from the very protoplasm of state life. And some day this country will be studied in its international relations, as an organic part of a larger organism now vaguely called the World State, but as surely developing through the operation of economic, legal, social, and scientific forces as the American Union, the German and British Empires are evolving into higher forms. American history in its widest relations is not to be written by any one man nor by any one generation of men. Our history will grow with the nation and with its developing consciousness of internationality. The present possibilities for the real progress of historic and economic science lie, first and foremost, in the development of a generation of economists and practical historians, who realize that history is past politics and politics present history; secondly, in the expansion of the local consciousness into a fuller sense of its historic worth and dignity, of the cosmo-

politan relations of modern local life, and of its own wholesome conservative power in these days of growing centralization. National and international life can best develop upon the constitutional basis of local self-government in church and state.

The work of developing a generation of specialists has already begun in the college and the university. The development of local consciousness can perhaps be best stimulated through the common school. It may be a suggestive fact that the school committee of Great Barrington, Mass., lately voted (*Berkshire Courier*, Sept. 6, 1882) to introduce into their village high school,[1] in the hands of an Amherst graduate, in connection with Nordhoff's "Politics for Young Americans," and Jevons' "Primer of Political Economy," the article upon "The Germanic Origin of New England Towns," which was once read in part before the Village Improvement Society of Stockbridge, Mass., Aug. 24, 1881, and published in the *Pittsfield Evening Journal* of that day. Local demand really occasioned a university supply of the article[2] in question. The possible connection between the college and the common school is still better illustrated by the case of Professor Macy, of Iowa College, Grinnell, who is one of the most active pioneers in teaching "the real homely facts of government," and who in 1881 published a little tract on Civil Government in Iowa, which is now used by teachers throughout that entire State in preparing their oral instructions for young pupils, beginning with the township and the county, the institutions that are "nearest and most easily learned." A special pupil of Professor Macy's—Albert Shaw, A. B., Iowa College, 1879—is now writing a similar treatise on Civil Government in Illinois, for school use in that State. There should be such a manual for every State in the Union.

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[1] The catalogue of the Great Barrington High School (1882) shows that the study of history and politics is there founded, as it should be, upon a geographical basis.

[2] *Johns Hopkins University Studies in Historical and Political Science*, II. "The Germanic Origin of New England Towns."

But the writer would like to see a text-book which not only explains, as does Principal Macy, "the real homely facts of government," but which also suggests how those facts came to be. A study of the practical workings of local government and of the American Constitution is a study of politics which every young American ought to pursue. But a study of the origin and development of American institutions is a study of history in one of its most important branches. It is not necessary that young Americans should grapple with "the Constitution" at the very outset. Their forefathers put their energies into the founding of villages, towns, and plantations before they thought of American independence. Their first country this side of the Atlantic was the colony; in some instances, the county. It is not unworthy of sons to study the historic work of fathers who constructed a nation upon the solid rock of local self-government in church and state.

If young Americans are to appreciate their religious and political inheritance, they must learn its intrinsic worth. They must be taught to appreciate the common and lowly things around them. They should grow up with as profound respect for town and parish meetings as for the State legislature, not to speak of the Houses of Congress. They should recognize the majesty of the law, even in the parish constable as well as in the high sheriff of the county. They should look on selectmen as the head men of the town, the survival of the old English reeve and four best men of the parish. They should be taught to see in the town common or village green a survival of that primitive institution of land-community upon which town and state are based. They should be taught the meaning of town and family names; how the word "town" means, primarily, a place *hedged in* for purposes of defence; how the picket-fences around home and house-lot are but a survival of the primitive *town* idea; how *home*, *hamlet*, and *town* live on together in a name like *Hampton*, or *Home-town*. They should investigate the most ordinary things, for these are often the most archaic. For example, there is the

village pound, which Sir Henry Maine says is one of the most ancient institutions, "older than the king's bench, and probably older than the kingdom." There, too, are the field-drivers (still known in New England), the ancient town herdsmen, village shepherds, and village swine-herds (once common in this country), who serve to connect our historic life with the earliest pastoral beginnings of mankind.

It would certainly be an excellent thing for the development of historical science in America if teachers in our public schools would cultivate the historical spirit in their pupils with special reference to the local environment. Something more than local history can be drawn from such sources. Take the Indian relics, the arrow-heads which a boy has found in his father's field, or which may have been given him by some antiquary: here are texts for familiar talks by the teacher upon the "Stone Age" and the progress of the world from savage beginnings. Indian names still linger upon our landscapes, upon our mountains, rivers, fields, and meadows, affording a suggestive parallel between the "exterminated" natives of England and New England. What a quickening impulse could be given to a class of bright pupils by a visit to some scene of ancient conflict with the Indians, like that at Bloody Brook in South Deerfield, Mass., or to such an interesting local museum as that in Old Deerfield, where is exhibited in a good state of preservation, the door of an early settler's house,—a door cut through by Indian tomahawks!

A multitude of historical associations gather around every old town and hamlet in the land. There are local legends and traditions, household tales, stories told by grandfathers and grandmothers, incidents remembered by "the oldest inhabitants." But above all in importance are the old documents and manuscript records of the first settlers, the early pioneers, the founders of our towns. Here are sources of information more authentic than tradition, and yet often entirely neglected. If teachers would simply make a few extracts from these unpublished records, they would soon

have sufficient materials in their hands for elucidating local history to their pupils and fellow-townsmen. The publication of such extracts in the local paper is one of the best ways to quicken local interest in matters of history. Biographies of "the first families," of the various ministers, doctors, lawyers, "Squires," "Generals," "Colonels," college graduates, school-teachers, and leading citizens,—these are all legitimate and pleasant means of kindling historical interest in the community and in the schools. The town fathers, the fathers of families, and all their sons and daughters will quickly catch the bearings of this kind of historical study, for it takes hold upon the life of the community and quickens not only pride in the past but hope for the future.

In order to study history it is not necessary to begin with dead men's bones, with Theban dynasties, the kings of Assyria, the royal families of Europe, or even with the presidents of the United States. These subjects have their importance in certain connections, but for beginners in history there are perhaps other subjects of greater interest and vitality. The most natural entrance to a knowledge of the history of the world is from a local environment through widening circles of interest, until, from the rising ground of the present, the broad horizon of the past comes clearly into view. There is hardly a subject of contemporary interest which, if properly studied, will not carry the mind back to a remote antiquity, to historic relations as wide as the world itself. A study of the community in which the student dwells will serve to connect that community not only with the origin and growth of the State and Nation, but with the mother-country, with the German fatherland, with village communities throughout the Aryan world,—from Germany and Russia to old Greece and Rome; from these classic lands to Persia and India. Such modern connections with the distant Orient are more refreshing than the genealogy of Darius the son of Hystaspes.

I would not be understood as disparaging ancient or old-world history, for, if rightly taught, this is the most inter-

esting of all history; but I would be understood as emphasizing the importance of studying the antiquity which survives in the present and in this country. America is not such a new world as it seems to many foreigners. Geologists tell us that our continent is the oldest of all. Historians like Mr. Freeman declare that if we want to see Old England we must go to New England. Old France survives in French Canada. In Virginia, peculiarities of the West Saxon dialect are still preserved. Professor James A. Harrison, of Lexington, Virginia, writes me that in Louisiana and Mississippi, where upon old French and Spanish settlements the English finally planted, there are "sometimes three traditions super-imposed, one on the other." Men like George W. Cable and Charles Gayarré have been mining to good advantage in such historic strata. If American students and teachers are equally wise, they will look about their own homes before visiting the land of Chaldæa.

The main difficulty with existing methods of teaching history seems to be that the subject is treated as a record of dead facts, and not as a living science. Pupils fail to realize the vital connection between the past and the present; they do not understand that ancient history was the dawn of a light which is still shining on; they do not grasp the essential idea of history, which is the growing self-knowledge of a living, progressive age. Etymologically and practically, the study of history is simply a learning by inquiry. According to Professor Droysen, who is one of the most eminent historians in Berlin, the historical method is merely *to understand by means of research.* Now it seems entirely practicable for every teacher and student of history to promote, in a limited way, the "know thyself" of the nineteenth century by original investigation of things not yet fully known, and by communicating to others the results of his individual study. The pursuit of history may thus become an active instead of a passive process, — an increasing joy instead of a depressing burden. Students will thus learn that history is not entirely

bound up in text-books; that it does not consist altogether in what this or that learned authority has to say about the world. What the world believes concerning itself, after all that men have written, and what the student thinks of the world, after viewing it with the aid of guide-books and with his own eyes, — these are matters of some moment in the developmental process of that active self-knowledge and philosophic reflection which make history a living science instead of a museum of facts and of books "as dry as dust." Works of history, the so-called standard authorities, are likely to become dead specimens of humanity unless they continue in some way to quicken the living age. But written history seldom fails to accomplish this end, and even antiquated works often continue their influence if viewed as progressive phases of human self-knowledge. Monuments and inscriptions can never grow old so long as the race is young. New meaning is put into ancient records; fresh garlands are hung upon broken statues; new temples are built from classic materials; and the world rejoices at its constant self-renewal.

## II.

# NEW METHODS OF STUDY IN HISTORY.[1]

The methods of historical study which are to be described in this paper may be specified as the Topical method, the Comparative method, the Co-operative method, and the Seminary or Laboratory method.

### 1.—THE TOPICAL METHOD.

A story is told of the introduction of biology to a class in an American college by a young professor, who, when asked by the college president if he did not intend to begin his class-work with a study of great principles, replied "No, we shall begin with a bushel of clams." If there is any guiding principle in the study of historical as well as of natural science, it is "The way to that which is general is through that which is special."[2] For beginners in history concrete facts

[1] This paper was read in abstract before the American Social Science Association, at Saratoga, September 4, 1883. It has since been considerably enlarged, especially upon the subject of the Seminary method, which has lately been worked out at the Johns Hopkins University in certain peculiar and practical ways, which may have more than a local interest. Dr. G. Stanley Hall and others interested in American pedagogics have urged the publication of a fuller account of the Baltimore Seminary, than the foregoing chapter which appeared in his book. The present article, while giving in detail the history of a local institution, which has evolved in its own way, treats of historical seminaries in general, so that the subject may be fairly represented.

[2] O. Yäger, quoted by Diesterweg, in Dr. Hall's volume on "Methods of Teaching History," 146.

are quite as essential as clams or earth-worms for beginners in biology. It makes little difference with what class of facts the student begins, provided they are not too complex for easy apprehension. A child may find historical culture in Bible stories, in Aryan mythology, in the Arabian Nights, in the legends of the middle ages, in the Boy's Froissart, or in the travels and adventures of Captain John Smith. Children of a larger growth may find as much profit in studying incidents of ancient as incidents of modern history. As far as mere culture is concerned, old Rome may be as suggestive as modern England. Ancient Egypt has its parallel in modern China. Democracy in Europe is fully as interesting as democracy in America. The point is that universal history may be approached in a great variety of special ways, any one of which may be as good as another. They are like the Brahminical philosopher's idea of different religious revelations,—gates leading into the same city. All roads lead to Rome, and all roads lead to history.

But while this general truth remains, that a student may approach history from any standpoint he may choose to take, whether in the ancient or in the modern world, at the beginning or at the end of historic time, it also remains true that there is a certain practical advantage in beginning historical study with that which is nearest and most familiar. A man's own family, community, country, and race are the most natural objects of historical interest, because man is born into such associations and because an historical knowledge of them will always be the most valuable form of historical culture, for these subjects most concern our own life, our past, present, and future. In history, as in biology, live specimens are usually better than dead ones. As a live dog is better than a dead lion, so historical subjects which possess vitality or continuity of interest from age to age, are the fittest for historical study. Some characters and scenes of history are of fresh and perennial interest although belonging to ages now remote. Other topics seem to have no enduring life, and, like dead specimens

of zoölogy, are relegated to antiquarian museums. *Life* is of supreme interest to history, as it is to biology; hence those nations and men that have made the present what it is will always be the best topics for historical study.

The field of history is so vast, it is cumbered with so many ruins and dead men's bones, that it is almost impossible to range over the whole tract and to identify all the past. There are some things which interest us and some which do not. It is better to rescue a few topics of living interest than to waste time and strength upon a dead past which buries itself. Accordingly, in teaching or studying any given section of history, whether ancient or modern, American or Assyrian, English or Egyptian, German or Greek, Russian or Roman, it would be well for the teacher or student to hold to living issues, to topics of surviving or of lasting interest. It is not worth while, for example, for most students to learn all the names of Assyrian and Egyptian kings, and how long each dynasty reigned. On the other hand, enduring geographical facts, which have supported kingdoms in Mesopotamia and in the Nile valley during all ages of the world, are of lasting significance. The agriculture, industries, art, science, literature, religion and social culture of these countries will always be of interest to most minds, for these things have entered into the life of the race. The ways and means by which modern science began to find out these early civilizations is almost as interesting as the facts that were discovered. A knowledge of the modern literature concerning ancient Egypt or Assyria is perhaps of even more value to students than a general knowledge of Egyptian chronology.

I should be inclined to recommend, in beginning the study of history by any special method of approach, like the history of America or the history of Egypt, that teacher and class begin work upon the geography of the United States or of the Nile valley. The pupil should be referred to his atlas and the teacher should show his pupil how to draw an outline map of the country under consideration, how to lecture in an

off-hand way, upon the coast-line, mountain-ranges, river-valleys, climate, and other physical characteristics of the land, in short, the enduring natural influences which would affect the people inhabiting this chosen land. Show him where they would settle if they followed the guidance of geography and climate. Such a topic as physical geography, thus viewed in its specific application to a given country, might profitably occupy several class exercises. Then, after a thorough consideration of the lay of the land, comes naturally the topic of the people, the first inhabitants. Were they aborigines, if not, where did they come from as colonists? This question of the origin and connection of races, even if cursorily treated, introduces a class at once to one of the greatest topics in universal history, namely, ethnology. Whether viewed in ancient or modern ways, the subject of the origin and dispersion of races must always remain one of the most fruitful and instructive themes.

After the topics of a chosen land and of a chosen people, should come the subject of the sources of that people's history. What memorials of themselves have the primitive inhabitants of America or of Egypt left behind them? Here is an opportunity, whether in the case of ancient America or of ancient Egypt,[1] for considering the subject of the Stone Age, the first relics of human industry and of the oldest monuments of our race. Whether the illustration be Indian arrow heads or sharp Ethiopian stones, the mounds of the Great West or the pyramids of Egypt, a class of bright students will easily become interested, if not enthusiastic, provided the slightest care is taken to present them with illustrative material in the shape of Stone Age relics, real or pictorial. Egyptian hieroglyphics and Indian picture writing would serve the same great

[1] The idea of Brugsch that "Egypt throws scorn upon the assumed periods of the three ages of stone, of bronze, and of iron," finds striking refutation in Prof. Henry W. Hayne's "Discovery of Palaeolithic Implements in Upper Egypt." Memoirs of the American Academy of Science, vol. x.

purpose of explaining the origin of alphabets and literatures. The special and the concrete are thus transformed into the universal and the philosophic, and that too in the mind of a child. *Universalia in rebus.* A picture of the Rosetta Stone or a story of Indian myths brings different languages and religions into some kind of co-ordination, and even in the study of a single people the history of the world begins to be the history of our common humanity. The religious ideas, the manners and customs of both Indians and Egyptians are among the very best sources of universal history, and no teacher or student can afford to neglect such topics. Under the head of the sources of American or of Egyptian history a great variety of special topics will suggest themselves as class-work advances and as individual interest kindles for concrete realities.

So varied and so deep becomes the interest in topical history that no manual or mere sketch is sufficient to satisfy the demands of a quick and eager class. Original sources and standard authorities are seen to be fresher, purer, and stronger than the tiny rill of school-book literature which rarely flows from the real fountain-head, but from standing reservoirs of derived knowledge. It is of great importance in the pedagogical process of teaching history that the student should learn the origin of written history, how manuals and standard histories are constructed; otherwise, the student will look upon the book or manual as a final authority. He should, on the contrary, look at all written history as simply a current, more or less colored by human prejudice, a current which has come down, like the Nile or the Mississippi, from some higher and more original source than the passing stream. Such a consciousness leads the student to further inquiry, to a habit of mind like that of explorers who sought the sources of the Nile or of the Congo. To develop this inquiring habit in pupils is an easy matter, but it is not always so easy to gratify awakened curiosity. Pupils should, however, be taught to find out things for themselves and not to despise

the teacher or an author, if he does not profess to know everything that can be discovered. The sooner pupils and teacher consent to work together, the better it will be for both.

American teachers are beginning to introduce their pupils to American history in special ways. In Boston, during the summer vacation of 1883, a course of lectures for young people was given in the Old South Church by a number of specialists, encouraged by Mrs. Augustus Hemenway, upon such commonplace topics as History in the Boston Streets, Franklin the Boston Boy, Samuel Adams the Man of the Town meeting, Concord, Plymouth, and Governor Bradford. In connection with each lecture was published a miniature historical journal called "Old South Leaflets," containing short extracts from original sources of New England History, for example an extract from Bradford's History of Plymouth Plantation describing the preliminary arrival of the Pilgrim Fathers in Cape Cod Harbor, before their landing upon Plymouth Rock. In connection with the lecture on Concord, given by Mr. Frank B. Sanborn, was printed an extract from Ralph Waldo Emerson's Discourse on the Second Centennial Anniversary of the Incorporation of the Town, together with that famous Concord hymn written by the poet-sage, where

> "once the embattled farmers stood,
> And fired the shot heard round the world."

To accompany the lecture on Town meeting, by Professor James K. Hosmer, extracts were printed from Jefferson and De Tocqueville, and from the revolutionary correspondence of the famous committees of safety which evolved from those popular assemblies under the guidance of men like Samuel Adams, the Man of the Town meeting. Such topical lectures explain how the American Revolution was kindled. These are good illustrations of the topical method of introducing pupils not only to New England history, but to the history of our common country. One cannot help believing that the

Old South Church[1] proved a better school-house and a more suggestive school-book during a summer vacation than many which bear the name, year in and year out.

It is undoubtedly the most profitable course for American Common Schools and High Schools to approach the study of history, as they usually do, from an American standpoint, from which the field of vision widens gradually over English and French history. But it is possible, in many instances, to make American history more interesting and more suggestive by improving the local environment, by opening fresh vistas with widening outlook from the local vantage ground of State, County, Town, and Village. The American standpoint will afford broader views and more local coloring by special methods of observation.

One of the best illustrations of the topical method as applied to the study of American history is the class-work of Professor Moses Coit Tyler, at Cornell University, and of Dr. Albert B. Hart, at Harvard University. Cornell is the first American institution which has made American history a distinct specialty, by the establishment of a full professorship, devoted entirely to this department. President White, in his recent report (1883), says: "In no part of the world to-day is there so complete a course in American history, either in extent or equipment,[2] as can be found here."

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[1] A further development of the lecture system in the Old South Church was a course of twelve special lectures by Mr. John Fiske, upon the American Revolution, from "The First Misunderstanding," 1761–'67—until constitutional order evolved out of chaos, 1787–'89.

[2] The equipment of Cornell University for the study of American history is illustrated by the Sparks and May Collections, and by an appropriation from the Trustees, of "over $5,000 during the past year [1883] to special purchases of books in the department of American history." One of the Faculty "has deposited for the use of the students, a large collection of works relating to the most recent period in our history, especially the time of the Civil War. The Executive Committee have also fitted up a commodious lecture-room and a special library for the use of students in this department, and have added to its other equipment a very complete collection of maps." Extracts from President White's Annual Report, 1883.

Professor Tyler, by request of the author of this paper, has prepared the following brief account of a special class-course, which admirably illustrates the topical method:

"Perhaps it may be a peculiarity in my work as a teacher of History here that I am permitted to give my whole attention to American History. At any rate, this fact enables me to organize the work of American History so as to cover, more perfectly than I could otherwise do, the whole field, from the prehistoric times of this continent down to the present, with a minuteness of attention varying, of course, as the importance of the particular topic varies.

"I confess that I adopt for American History the principle which Professor Seeley, of Cambridge, is fond of applying to English History, namely, that while History should be thoroughly scientific in its method, its object should be practical. To this extent I believe in History with a tendency. My interest in our own past is chiefly derived from my interest in our own present and future; and I teach American History, not so much to make historians as to make citizens and good leaders for the State and the Nation. From this point of view, I decide upon the selection of historical topics for special study. At present I should describe them as the following: The native races, especially the Mound-builders and the North American Indians; the alleged Pre-Columbian discoveries; the origin and enforcement of England's claim to North America, as against competing European nations; the motives and methods of English colony-planting in America in the seventeenth and eighteenth centuries; the development of ideas and institutions in the American colonies, with particular reference to religion, education, industry, and civil freedom; the grounds of inter-colonial isolation and of inter-colonial fellowship; the causes and progress of the movement for colonial independence; the history of the formation of the national constitution; the origin and growth of political parties under the constitution; the history of slavery as a factor in American politics, culminating in the civil war of 1861–65. On all

these subjects, I try to generate and preserve in myself and my pupils such an anxiety for the truth, that we shall prefer it even to national traditions or the idolatries of party.

"As to methods of work, I doubt if I have anything to report that is peculiar to myself, or different from the usage of all teachers who try to keep abreast of the times. I am an eclectic. I have tried to learn all the current ways of doing this work, and have appropriated what I thought best suited to our own circumstances. As I have students of all grades, so my methods of work include the recitation, the lecture, and the seminary.[1] I have found it impossible by the two former, to keep my students from settling into a merely passive attitude; it is only by the latter that I can get them into an attitude that is inquisitive, eager, critical, originating. My notion is that the lecturing must be reciprocal. As I lecture to them, so must they lecture to me. We are all students and all lecturers. The law of life with us is co-operation in the search after the truth of history."

In a book recently published by Ginn and Heath, of Boston, on "Methods of Teaching History," there is a thorough exposition of the special or topical method, from the pen of Professor William F. Allen, of the University of Wisconsin. He has also contributed a remarkably full list of "History Topics" pertaining to ancient, mediaeval, and modern history,—including a special group of subjects representing the history of America. This list of topics, filling a dozen small octavo pages, forms an excellent guide to the study not only of universal history, but also of history from any special point of view, whether ancient or modern, Oriental, Grecian, Roman, Frankish, German, French, or American. The list might, perhaps, be supplemented by a fuller set of English topics,

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[1] An excellent illustration of Professor Tyler's seminary work is a paper by Miss Mary E. B. Roberts, of Washington, D. C., on "Bacon's Rebellion," which was read by me before the Historical Seminary in Baltimore, February 8, 1884.

but for an introduction to general history it will admirably serve its purpose. A valuable companion to this list of topics is a chapter on "Historical Literature and Authorities," which will greatly aid the teacher or student who may be engaged in a special line of historical study. One finds here the chief English works of historical literature all conveniently classified by subjects, with brief annotations indicating the special value or weakness of various authorities. It is no small matter for a student to learn the best ways and means of historical inquiry upon such important subjects as Primitive Society, Comparative Mythology, Ethnic Religions, the History of Society, General History, Ancient History, (the Orient, Greece, Rome) the Church, the Reformation, England, Ireland, Scotland, France, the English and French Revolutions, the Nineteenth Century, the United States, and our last civil war. Professor Allen's chronological classification of historical novels, poems, plays, and his mention of books for collateral reading in connection with class-work will also prove of great practical value to teachers and pupils. "Knowledge," says Dr. Johnson, "is of two kinds. We know a subject ourselves, or we know where we can find information upon it."

Professor Allen's views concerning the topical method of historical study are best represented by one or two literal citations from his chapter in the volume above mentioned: "The field of history is so vast and varied that it is impossible, in any college course, to treat all the subjects that deserve to be taken up. All that we can do is to lay out a course, or a number of courses, which appear to meet, as a whole, the needs of the largest number, and which will allow selection, in accordance with tastes, to those who do not care to take it as a whole. . . . As to method, I have also experimented a great deal. For college classes—elective classes especially—nothing seems to me a greater waste of force than to spend the hour with a text-book in my hand, hearing the students repeat what is in the book. Lecturing, however satisfactory in the German universities, I do not find suited to the wants of my

students as a regular mode of *instruction*. For suggestion and for review it may be employed with great advantage; and for regular instruction in fields in which there is no suitable text-book, I am often obliged to have recourse to it. But it requires, to be efficacious, constant questioning, thorough examinations, and occasional inspection of note-books.

"In the method which I have at last settled upon, my aim has been to get some of the benefits which students in the natural sciences acquire from work in laboratories. Students of the age and maturity of juniors and seniors can get the greatest advantage from historical study by doing some independent work akin to laboratory work. I would not be understood as claiming that this is original investigation, in any true sense of the term. Laboratory work in chemistry and physics is not original investigation, neither is the study of topics in history. The object, it must be remembered, is education, not historical investigation; and the object of the educational process is not merely to ascertain facts, but even more: to learn how to ascertain facts. For the student, as a piece of training, historians like Prescott and Bancroft may stand in the place of authorities. To gather facts from them, really at second hand, has for the student much of the educational value of first-hand work. Of course, there is a difference in students, and the work done by some is of a much higher grade than that of others. For the best students it easily and frequently passes into the actual study of authorities at first hand.

"In studying by topics I always desire that the class should have a text-book—a brief compendium—upon which they are liable to be questioned and examined, and which will serve at any rate as a basis and guide of work. My method is then to assign for every day—as long beforehand as possible—special topics to two or three students, which they are to study with as great thoroughness as possible in all the works to which they have access, and present orally in the class, writing out a syllabus beforehand upon the blackboard. If they write out

the topic, and depend upon a written paper, they are much less likely to be certain of their ground and independent in their treatment.

"The topical method here described is successsful in proportion to the abundance and accessibility of books of reference. In American history it works best, and here I employ no other. In the dynastic history of ancient and modern times, it is satisfactory in most cases. I combine with it constant map-drawing, and the preparation of a synchronistic chart. In the more advanced courses, owing to the deficiency of good books of reference, it is necessary to abandon the method, or combine it with lectures, recitations, and written essays. It is, of course, impossible to assign topics which cover the whole ground. It is possible, however, to select for this purpose all the names and events of first importance, and it is one of the advantages of the topical method that it thus affords an opportunity to emphasize those facts of history which most need emphasis. It is the special function of the teacher to supplement the topics, to point out their relative importance and their connection with one another, and to help the students in acquiring a complete and accurate general view."

## 2.—THE COMPARATIVE METHOD.

A great impulse was given to the historical sciences by the introduction of the comparative method into the study of philology, mythology, religion, law, and institutions. It seemed as though the horizon of all of these fields suddenly widened, and as if the world of human thought and research were expanding into new realms. Through comparative philology the kinship of the Indo-European family of nations was made known to History, and upon the basis of this one great fact, comparative mythology, comparative religion, comparative jurisprudence and comparative politics have been raised into independent sciences. Perhaps the grandest result of the comparative method, while broadening the areas of

human knowledge, was the breaking down of that middle wall of partition between nations once thought to be widely different in language, religion, law and government. The ancient and the modern world were brought together. It was seen that Medes and Persians, Greeks and Romans, Kelts, Teutons, and Slaves are all of one common Aryan stock. "Before the great discoveries of modern science," says Freeman, "before that greatest of all its discoveries which has revealed to us the unity of Aryan speech, of Aryan religion, and Aryan political life, the worn out superstitions about 'ancient' and 'modern' ought to pass by like the spectres of darkness. . . . The range of our political vision becomes wider when the application of the comparative method sets before us the *ekklesia* of Athens, the *comitia* of Rome, as institutions, not merely analogous, but absolutely the same thing, parts of the same common Aryan heritage, as the ancient assemblies of our own land. We carry on the tale as we see that it is out of those assemblies that our modern parliaments, our modern courts of justice, our modern public gatherings of every kind, have grown." (On the Study of History, Fortnightly Review, March 1, 1881.)

It would be a fine thing for American students if, in studying special topics in the history of their own country, they would occasionally compare the phases of historic truth here discovered with similar phases of discovery elsewhere; if, for example, the colonial beginnings of North America should be compared with Aryan migrations westward into Greece and Italy, or again with the colonial systems of Greece and of the Roman Empire, or of the English Empire to-day, which is continuing in South Africa and Australia and in Manitoba, the same old spirit of enterprise which colonized the Atlantic seaboard of North America. It would interest young minds to have parallels drawn between English colonies, Grecian commonwealths, Roman provinces, the United Cantons of Switzerland, and the United States of Holland. To be sure, these various topics would require considerable

study on the part of teacher and pupil, but the fathers of the American constitution, Madison, Hamilton, and others, went over such ground in preparing the platform of our present federal government. American sons can follow their fathers, although with unequal steps. Why should not American youth learn, as did the founders of our government, that there have been such things as confederations and unions, as constitutions and states rights, as checks and balances, in other countries and in former ages of the world? In such ways American history might become less provincial and more universal.

But my special plea is for the application of the comparative method to the use of historical literature. Students should learn to view history in different lights and from various standpoints. Instead of relying passively upon the *ipse dixit* of the school-master or of the school-book or of some one historian, pupils should learn to judge for themselves by comparing evidence. Of course some discretion should be exercised by the teacher in the case of young pupils, but even children are attracted by different versions of the same tale or legend, and catch at new points of interest with all the eagerness of original investigators. The scattered elements of fact or tradition should be brought together as children piece together the scattered blocks of a map. The criterion of all truth, as well as of all art, is *fitness*. Comparison of different accounts of the same historic event would no more injure boys and girls than would a comparative study of the four gospels. On the contrary, such comparisons strengthen the judgment and give it greater independence and stability. In teaching history, altogether too much stress has been laid, in many of our schools, upon mere forms of verbal expression in the text-book, as though historic truth consisted in the repetition of what some author had said. It would be far better for the student to read the same story in several different forms and then to give his own version. The latter process would be an independent historical view based upon a variety of evidence.

The memorizing of "words, words," prevents the assimilation of pure facts and clogs the mental processes of reflection and private judgment.

The prosecution of the comparative method in the study of history requires an increase of facilities beyond the meagre text-books now in use. While by no means advocating the abolition of all manuals, chronologies, and general sketches of history, I would strongly urge the establishment of class-libraries for historical reference. This special practice would be quite in harmony with the growing custom of equipping public schools with special libraries. It is a practice which the interest of publishers and the good sense of all friends of education would tend to foster. In some cases, where pupils are well advanced, they can take the matter of supplying a special library into their own hands, under the direction of a teacher. At Smith College, Northampton, Massachusetts, the various classes, for several years in succession, instead of buying text-books in history, contributed the money which text-books would have cost into individual class funds, with which a great variety of standard authorities and original sources of information were procured, covering the historical period the class was to study as no manuals could have done. Each class-library was kept under the control of a class-committee, who saw to it that the books were so distributed as to carry out the plans of the teacher for class-work and individual investigation. Special topics were assigned, which required reading in a variety of authors, a chapter here, a few pages there, a paragraph elsewhere. By careful management on the part of the teacher and by cordial co-operation on the part of the class, a few good books of reference may become a circulating library of remarkable efficiency. The larger the class, the larger the library that can be afforded and the greater the potential volume of class-knowledge thereby secured; but in smaller classes it is of course easier for the teacher to co-ordinate labor and its results. The preparation of essays on special themes, based upon the comparative method of study; oral

examinations of the class upon general topics which have been prepared from different sources of information; the occasional inspection of note-books, the keeping of which should be required in connection with class-reading; written examinations on general topics, lectures, and certain optional subjects afford sufficient scope for the teacher's judgment as to the progress of his class by the comparative method.

At Smith College, Harvard College, and at the Johns Hopkins University, the comparative method of study in History and other subjects has long been in operation. In Cambridge and in Baltimore, certain books are reserved from the main library of the university for class-use. In Baltimore, such reservations are occasionally supplemented by drafts on other libraries in the city and by private contributions. The books are read in the university reading-room, but are taken out by special arrangement, for a limited time, when there is no other demand. In Baltimore, among undergraduates, the comparative method of historical study is confined chiefly to the use of standard histories, with here and there an original source of information to give the spice of originality to student-research. The general theory is that undergraduates need training in good historical form, quite as much as in historical substance; that the influence of great masters like Curtius and Gibbon, Sismondi and Guizot, Hallam, Stubbs, Freeman, Green, Motley, and Bancroft, are of as great consequence as the facts they teach. The mere acquaintance with historical literature which a student acquires by the comparative method is likely to prove a greater value and stimulus to him in after life than any amount of text-book culture, of mere verbiage. Moreover, by the comparative method in the use of standard historians, students learn by a secondary process the same habits of reflection and individual judgment which they must afterwards apply and develop in the primary process of constructing history from original sources.

Good illustrations of the comparative method in historical study are the courses at Harvard college, given by Professor

Torrey, aided by Dr. Edward Channing, in diplomatic history, international law, and modern constitutions. While certain approved text-books are used for the guidance of the class, comparative reading upon special topics is pursued by individual students. All the authorities recommended upon a given subject are placed among the books reserved for these courses. Similar methods are pursued by Professor Macvane in his excellent class-courses on European history and on the constitutional history of England.

## 3.—THE CO-OPERATIVE METHOD.

It is not possible, within the limits of this paper, to describe the development of that new system of writing history, which is based upon the economic principles of division of labor and final co-operation. The time was when individual historians, monks and chroniclers, grappled boldly with the history of the whole world. There are still compilers of text-books for schools and colleges who attempt to epitomize the deeds of men from creation down to the present day. Indeed, the greatest of living historians, Leopold von Ranke, is now rapidly reviewing universal history in a work which already embraces several volumes and which he hopes to finish soon, being now at the age of eighty-eight, so that he may resume more special work. But, in spite of this extraordinary example, which seems to defy the weakness of age and the will of fate, it may be said with confidence that the day of universal histories by individual men is past. The day for the special and co-operative treatment of history by countries, epochs, and monographic themes is already here. We see a co-operative tendency in the best school-books. The history even of a single nation is now recognized as too vast a thing for one man to handle in a truly scientific manner, although special results of individual research are still co-ordinated in popular ways. The most notable example of the co-operative method in universal history is the new monographic history

of the world, edited by Professor Wilhelm Oncken, but composed by the most eminent specialists in Germany. One man writes the history of Egypt in the light of modern research; another that of Persia; a third reviews the history of Greece, giving the latest results of Grecian archæological investigations; others revise Roman history and the early history of Germanic peoples.

This co-operative method has lately been applied in Schönberg's great work on political economy, and was applied many years ago to a dictionary of political science by the late Dr. J. C. Bluntschli, of Heidelberg. Under his editorial guidance, contributions were made by French and German specialists to a great variety of subjects relating to European history and politics. Bluntschli's example has been followed in this country by the publication of Lalor's Cyclopædia of Political Science, Political Economy, and of the Political History of the United States. In America, the co-operative method of writing history has long been in quiet operation. Perhaps one of the earliest and most fruitful examples was that of the Massachusetts Historical Society, which, in the latter part of the last century, began to encourage the writing of New England town history upon principles of local co-operation. The contributions of parish ministers and local antiquaries were published in the proceedings of the society, and proved the humble beginnings of that remarkable series of town histories, which have now specialized the constitution of New England into a vast number of village republics, each one thought worthy of independent treatment. Co-operation has entered even the local domain, *e. g.*, the history of Boston, after passing through various individual hands, has lately been rewritten by a group of specialists, working under the editorial direction of Professor Justin Winsor, of Harvard College. This method is now proposed in Providence and other cities. It has been extended by Justin Winsor to the whole country, for the Narrative and Critical History of the United States, which he is now editing, is made up of monographs by the best specialists that the country affords.

The special plea to be urged in this connection is for the application of the co-operative method by classes engaged in historical study. The field of universal history is too vast, not only for historians, but for individual students to master, except in the barest outlines. It has been elsewhere urged that the best way to general history is through that which is special. Here the proposition is that the results of special work can be so co-ordinated in a class of students that each member may, to some extent, reap the benefit of the labor of his companions. Especially is the co-operative method of study to be recommended, where the time and opportunities of a class are extremely limited. More historical ground can thus be covered in a truly scholarly way than is possible from the use of a meagre text-book. In Baltimore and elsewhere, the co-operative method is applied to the study of universal history by countries and epochs. While working to a certain extent upon common ground, covered by text-books, prescribed authors, and class-lectures, the members of a history-class co-operate with their instructor in the investigation of special topics connected with the course. The results of this special work are presented to the class in the form of original papers or brief *ex tempore* lectures by the students themselves, who are encouraged to abridge their knowledge and present it to the class in the form of an oral report, with the analysis written upon the blackboard. The reading of long essays before a class usually has a very depressing influence, but a student talking freely from a full head, and making his points clear and strong, always commands attention.

The urgent plea, then, for the co-operative method which I would make is for its application to the study of History in classes. Experience at the Johns Hopkins University and at Smith College has shown the advantage of this method for classes with a short period of time at their command, who nevertheless desire to cover a goodly stretch of historical territory. The method, in its practical operation, consists of a division of labor in a class guided by an instructor, who

undertakes to direct special work into co-operative channels. The student, while to some extent upon the common ground of text-books, or prescribed authors, and while taking notes upon class-lectures, of a special character, carries on investigations in close connection with the general course. Written reports are submitted to a critic for correction, are read before an elocutionist for the sake of training in the art of presentation, and are then finally presented, either wholly or in part, to the class, who take notes and are examined upon these co-operative studies in the same way as on material presented by the instructor.

### Student Lectures.

An interesting and valuable practice has gradually grown up among students of Historical and Political Science at the Johns Hopkins University, namely that of students lecturing to their own class upon subjects connected with the course. The practice originated several years ago among undergraduate students of History and International Law; it was the natural outgrowth of the topical method of study. It is a practice considerably different from that of reading formal essays, which often prove very burdensome to a class of intelligent pupils. The idea of oral reports with the aid of a brief or of a few notes, or, best of all, of an analysis written upon the blackboard, led the way to the preparation of a regular course of co-operative lectures by members of a class working conjointly with the instructor. Greater dignity was given to the efforts of students by asking them in turn to come to the front, to the map or blackboard, or else to the instructor's chair. For the time being the student became the teacher. Pretensions were seldom made to original investigations in preparing for such a class-lecture. The understanding was that students should collect the most authoritative information upon a given subject and present it to his fellows in an instructive way. This naturally implied the selection of the best points of view and the omission of all

irrelevant matter. The success of the lecturer turned, not upon his occupying the time by reading an encyclopædic article, but upon his kindling the interest of his classmates and keeping their attention to the end.

### Prehistoric Times.

An experiment was tried during the first half of the present academic year (1883–84) with a class of undergraduates (Freshmen) who were just beginning their study of History by following a course of introductory lectures on the Origin of Civilization. In connection with the instructor's course, which concerned more especially the Stone Age and the Development of the Human Family, such topics as the following were assigned to individuals for study, and for informal lectures at the desk of the instructor: Clubs and Batons; Stone Knives; Axes; Spears and Sceptres; Origin of Fire; Origin of Clothes; the Hunting and Fishing Stages of Society; the Plough and the Beginnings of Agriculture; Bread and the Cultivation of Cereals; Evolution of the House; Boats and their Improvement; Barter; the Art of Counting; Origin of the Alphabet; Picture-Writing; Pottery, etc. The youths appointed to these tasks were referred to such authorities as Tylor, Lubbock, Lyell, Wilson, Evans, Geikie, Peschel, Keary, Abbot, Short, Jones, *et al.*, whose writings were placed upon a reservation in the Library. The appointees quickly found their way into the pith of these books or such parts of them as concerned the subject in hand. The reports made to the class in the shape of off-hand lectures were really of surprising interest and value to the audience. So well did the experiment succeed that a few of these Freshmen were persuaded to give brief addresses to the Matriculate Society (embracing all undergraduate students who are candidates for the degree of A. B.) upon a series of connected topics pertaining to the Stone Age, namely, the Social Condition of Primitive Man, his Moral and Religious Condition, his Knowledge

of the Useful Arts, Evidence as to the Antiquity of Man, etc. These addresses partook of the nature of a discussion of Primitive Man from special points of view. The remarks made were by no means essays committed to memory, but rather the easy utterance of minds well stored with facts. The naturalness of the efforts and the absence of all attempts at Sophomoric eloquence were quite noteworthy.

As further illustrations of the kind of subjects investigated by undergraduate students at the Johns Hopkins University, who were working in a co-operative way with their instructors, the following select lists may suffice. It should be understood that in each class, namely in Church History, the Italian Renaissance, the German Reformation, in the History of France and England during the Middle Ages, and in the History of Political Economy, the teacher gave systematic instruction by lectures or otherwise, and that the investigations carried on by students had direct connection with the class-course.

### Church History.

Influence of Jewish Ceremonial upon the Christian Church; Influence of Greek Philosophy upon Christian Thought; Influence of Roman Institutions upon the Church and upon the Canon Law; the Apostolic Fathers; the Greek Apologists; the Latin Apologists; Saint Ambrose; Chrysostom, Saint Jerome and the Vulgate; Saint Augustine and the City of God; Nestorianism; the Clergy and the Laity; the Office of Patriarch; Metropolitan Centres of Church Life; Origin of the Papacy; Artistic Representations of the Growth of the Ecclesiastical Constitution; Leo the Great; Extension of Church Authority into England; Conversion of Germany; Relation of Charles the Great to the Papacy; Otto the Great; International Position of the Holy Roman Empire of the German Nation; Constitution of the Empire; Territorial Claims of the Empire; Gregory VII. and the Countess Mathilda, of Tuscany; the Normans in Sicily; Frederick

Barbarossa and his Relations with Italy; Arnold, of Brescia; Points of Conflict between the Empire and Papacy; Fall of the Hohenstaufen Emperors; the Great Councils of the 15th Century.

### The Italian Renaissance.[1]

Greece in the Middle Ages; Revival of Greek Ideas in Italy; Poggio's Study of Roman Antiquities and his Discovery of Classic Manuscripts; Dante's *De Monarchia;* Petrarch's Relation to the Revival of Learning; Boccaccio's Influence upon Literature; Laurenzo Valla and Humanism in Rome; the Platonic Academy and Humanism in Florence; the Revival of Roman Law; Mediæval Universities; Natural Science in the Middle Ages; Recent Vindications of Lucretia Borgia; the Political Merits of Cæsar Borgia; Modern Views of Machiavelli; Savonarola; Lorenzo di Medici; Alexander VI; Julius II; Leo X; The Building of St. Peter's.

### The German Reformation.[1]

The German Humanists, Reuchlin and Melanchthon; Ulrich von Hutten and Franz von Sickingen; Erasmus and

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[1] Bibliographies of these "Studies in Modern History by a class of undergraduates, 1879–80," were printed in the year last named under two general heads, the Italian Renaissance and the German Reformation. They are now out of print, but are too long for a reprint here. Some idea of their character can be had from the bibliographies printed under the head of the History of Political Economy.

To Baltimore students it is an interesting fact that the same line of co-operative study in the history of the Italian Renaissance has been followed by their former associate, H. W. Caldwell, and his students in the University of Nebraska. Admirable papers on "Savonarola" and "Erasmus" have been sent from Lincoln, Neb., to Baltimore for examination. It may be added, in this connection, that the courses in History under Professor George E. Howard and Instructor H. W. Caldwell, at the University of Nebraska, are among the most complete and the most modern in spirit, of any that are given in this country. The weak side, however, is insufficient attention to American history.

his Praise of Folly; the English Humanists, Grocyn, Linacre, and John Colet; More's Utopia; English and German Translations of the Bible; the Ideas of Wyclif and how they came to Bohemia; John Huss; The Relation of Peasant Revolts to the German Reformation; Character of Luther as revealed in his Table Talk; Roman Catholic Estimates of Luther; Character of Charles V; Character of the German Princes; Political Elements in the German Reformation; Protestantism in Italy; Catholic Reformation; Ignatius Loyola; the Council of Trent; the Peace of Augsburg.

FRENCH AND ENGLISH HISTORY.—*Mediæval Period.*

Cæsar's Conquest of Gaul; Life in Gaul in the Fifth Century; Monastic Life in Merovingian Gaul; the Northmen; Cnut and Harald Haardrada; Lanfranc and Anselm; the Bayeux Tapestry; Domesday; Results of the Crusades; Origin of Feudalism; Mediaeval Cathedrals; *Scriptoria* and Chronicles; Conquest of Wales; the Coming of the Friars into England; Law-Courts, *circa* 1200, in England; the Albigenses and the Crusade against them; Military and Religious Orders; Montfort in Gascony; London in the Fourteenth Century; Robert Bruce; Life on the Roads in England in the Fourteenth Century; the Popes at Avignon; Froissart; Wyclif's Bible; the Paston Letters; Parliamentary Antiquities in the Fourteenth and Fifteenth Centuries; Comparison of the Characters of Louis XI, Henry VII, and Ferdinand of Aragon; the States General of 1468 and 1484; the Relations of France and Scotland in the Fifteenth Century.

INTERNATIONAL LAW AND POLITICS.

Another recent phase of co-operative student-lectures at the Johns Hopkins University is that represented by a class of graduates pursuing a systematic course of instruction upon the Historical Development of International Law. The instructor

considered such topics as the Intertribal and Intermunicipal Relations of the Orient (Evolution of the Family, Tribe, Village, and City; Wars, Forays, Women Capture, Slave-Trade, and Commerce); the Intermunicipal Life of the Greeks (Federation of Demes and Cities, Hegemony, Insopolity, Municipal Hospitality, Oracles, Games, Festivals, Arbitration, Leagues, Relations with Persia and Rome); Rome, the *civitas mundi* (imperial tendency of Roman Institutions, Roman Law, *Jus Gentium*, Fetiales, Treaties, Roman Municipia, Italian Republics); International Position of the Mediæval Church (Municipal Origin of Church Government, Papal Rome, Church and State, Church Authority, Interdicts, Councils); Origin and Tendencies of Modern International Law (Italian Beginnings, Commercial Law of Italian Republics, Intermunicipal Relations, Invasion of Italy, Rise of the State-System, Venetian Ambassadors, Thirty Years' War, Hugo Grotius, Puffendorf, Vattel, Wheaton, Lieber, Bluntschli). In connection with this historical survey of the growth of internationality a series of historical and institutional lectures was given by members of the class; and, in connection with the exposition of Bluntschli's code of the Modern International Law of Civilized States, a similar course of student-lectures was given on Modern International Politics. The following select titles will indicate the character and scope of the two courses.

I. *Historical Course.*—Carthaginian Commerce; Carthaginian Treaties; Grecian Economics; Grecian City Government; the Aristocratic Character of Roman Institutions; the Roman Municipal System; International Influence of Roman Ethics; International Influence of the Church; International Influence of Chivalry and of the Crusades; Theories of Church and State; Phases of City Government in Florence; the City Government of German Free Cities and the Rhenish League; The Hanseatic League; the Government of the Swiss Cantons; the Federation of Switzerland; the Estates of Holland and their Federal Relations.

II. *Political Course.*—The Egyptian Question; the International Association for the Control of African Trade and the River Congo; France in the Tonquin; the Opening of China; Character of Chinese Diplomacy; the Opening and recent Progress of Japan; Relations between Germany and the Vatican; Papal Policy in America; Who should control the Panama Canal if there were one; International Congresses; the Question of an International Tribunal; the Diplomacy of the United States *versus* the Indians; the Relation of Political Ethics to International Law; the Theory of a World-State; Freedom of the Sea and of Great Rivers; the American Fisheries; the Monroe Doctrine in its relation to South American Republics; Review of the present International Relations of the United States; the American Hog in Diplomacy; Bismarck's Attitude towards the United States.

### History of Political Economy.

The following subjects were given out by the writer in 1879 to individual members of a class in the History of Political Economy, for private study. As far as possible original sources of information as well as the current literature on these subjects were examined by the respective appointees. After such examination the subjects were introduced for class consideration in the form of an oral report. The instructor usually questioned the appointee on matters connected with his report, and then discussed with the class the most interesting and suggestive points. A bibliography of the various subjects was prepared by the respective appointees, under supervision of the instructor, who worked with his students in classifying the resources of the various Baltimore libraries with reference to the topics in hand. These bibliographies were printed for class use and served a valuable purpose, although they were far from being complete. Good references were always sought after rather than mere lists of titles. In this connection, it may be remarked that one of the best

exercises for the student-investigator is to prepare as good a bibliography of his subject as the library facilities of his environment can afford. He should examine each book, monograph, or magazine article sufficiently to enable him to tell his class-mates what the same represents. The subjects of research are here enumerated with their bibliographies, as originally printed, together with the names of the persons who prepared them. No attempt has been made to supplement these lists, which could easily be done by reference to the foot-notes in Dr. Ely's authoritative work on "French and German Socialism" or by reference to the new edition of Poole's index and other bibliographical aids. These lists represent a certain historic phase of our economic work with undergraduates and were prepared in Baltimore libraries. The letters H and P refer respectively to the Johns Hopkins University and Peabody libraries. Other authorities were found in private collections.

1. The Mercantile System. H. J. BOWDOIN.

LITERATURE.—*Mun*, England's treasure by foreign trade. H. P. Other English Mercantilists: *Child*. P. *Sir W. Temple*. H. P. *Steuart*. H. P. *Locke*. P.—*Roscher*, Political Economy. H. *Roscher*, Gesch. d. engl. volkswirthschafts-lehre im 16 u. 17 jahrh. *Mill*, Principles of Polit. Econ. H. *McCulloch*, Principles of Political Economy. H. P. *Blanqui*, H. Ch. XXVII. H. Dict. de l'Econ. Politique, "Colbert." H.

2. The System of the Physiocrats. A. F. JAMIESON.

LITERATURE.—*Quesnay*, Tableau Economique, 1758. *Turgot*, Réflexions sur la formation et la distrib. des richesses, 1766–78. *Mirabeau, the Elder*, L'ami des hommes, 1755–60. *Mauvillon*, La monarchie Prussienne. *Encyclopédie*, 1756–57. *Adam Smith*, Wealth of Nations (Roger's edition). H. *M. Kaufman*, Socialism. Bk. II. ch. II. H. P. *Blanqui*, Vol. II. H. Dict. de l'Econ. Pol., "Physiocrats." H.

3. Adam Smith and the fundamental doctrines of English Economy. STEWART LINTHICUM.

LITERATURE.—*Adam Smith*, Wealth of Nations. H. P. *Blanqui*, Vol. II. p. 106. H. P. *Shadwell*, System of Political Economy. H. *Thompson*, Social Science and National Economy. H. *McCulloch*, Principles of Political Economy. H. P. Le centenaire d'Adam Smith, Journal. des Econ., July, 1876,

v. 43. H. Dict. de l'Econ. Pol. "Smith." H. *Bagehot*, Fortnightly Rev., July, 1876, "Adam Smith." *Nasse*, Das hundertjährige jubiläum der Schrift v. Adam Smith über den reichthum der nationen, Preus. Jahrbücher, Oct. 1876.

## 4. St. Simon and his School. LEE SALE.

LITERATURE.—Works of *St. Simon*, especially, (1) Le nouveau Christianisme, (2) Catéchisme des Industriels. H. *Lerminier*, Lettres Philosophiques VII., Des questions soulevées par le Saint-Simonisme, Revue des Deux Mondes, 1832. *Reybaud*, Socialistes Modernes, i, H., Les Saint-Simoniens, Rev. des Deux Mondes, 1836. *Janet*, Saint Simon, Le fondateur du socialisme, Rev. des Deux Mondes, Apr. 15, 1876. *Janet*, L'école Saint Simonienne, Bazard et Enfantin, Rev. des Deux Mondes, Oct. 1, 1876. *Hillebrand*, Die anfänge des socialismus in Frankreich, 1830–48, Deutsche Rundschau, Dec. 1878. H. *Blanqui*, Vol. II., ch. XLIII. H. *Huber*, Socialismus u. Kommunismus, Kleine Schriften or Bluntschli's Staatswörterbuch. H. North. Brit. Rev. 1848, No. 9. Westm. Rev. Apr. 1832. Dict. de l'Econ. Pol. H.

## 5. Fourier's doctrines and his influence upon American Socialism. E. C. RICHARDSON.

LITERATURE.—*Fourier*, Oeuvres complètes. P. *Blanqui*, vol. 2, p. 258. H. *J. S. Mill*, Principles of Political Economy. Vol. I. pp. 274–277. H. *M. Kaufman*, Socialism, pp. 118–128. P. H. *J. H. Noyes*, History of American Socialisms. P. *Parke Godwin*, A popular view of the doctrines of Fourier, "Fourier," Fortnightly Rev. vol. 12, Essays 1. 2. P. Fourierism, Christian Examiner, vol. 37, p. 57. P. *Hawthorne*, The Blithedale Romance. "Fourier," North Amer. Rev. Apr. 1879. Hillebrand, Anfänge des Socialismus in Frankreich, 1830–48. Deutsche Rundschau, Dec. 1878.

## 6. Communism in the United States. W. R. STRICKLEN.

LITERATURE.—*Nordhoff*, Communistic Societies in the U. S. H. Historische beschreibung der wahren inspirationsgemeinschaft. The Circular (Oneida, 1854–74.) The Perfectionist (New Haven, 1834.) Handbook of the Oneida Community (N. Y., 1871.) *Thomas Brown*, An account of the people called "Shakers." *Williams*, The Harmony Society at Economy, Pa. *James*, Communism in America [Yale John A. Porter Prize Essay—Yale Law School.] Henry Holt & Co., 1879. H.

## 7. Mediaeval Craft Guilds and Modern Trades Unions. J. H. LOWE.

LITERATURE.—*Clode*, Memorial of the guild of the merchant-tailors in the city of London. P. *Toulmin Smith*, English Guilds (Early Engl. Text Soc. No. 40). H. *Comte de Paris*, Trades Unions in England. *Endemann*, Die

entwickelung der handels-gesellschaften. P. *Clifford*, Agricultural look-out. P. *Thornton*, On labor, Bk. II. ch. 4, and Bk. III. chs. 1–5. P. *Howell*, Conflicts of labor and capital. H. Fortnightly Rev., vol. 6 (N. S.) Old guilds and new friendly societies, by *Ludlow*. Quart. Rev. vol. 123. Trades Unions. Blackwood Mag., vols. 35, 43. North Amer. Rev. vol. 105. *Howell*, Contem. Rev., Oct. 1877. *Chr. Meyer*, Mittelalterliches u. modernes Bürgerthum, Preus. Jahrbücher, June, 1877. *Chr. Meyer*, Zur gesch. d. deutschen arbeiterstandes, Preus. Jahrbücher, Jan. 1879, p. 26. *Huber-Liebenau*, Das deutsche zunftwesen im mittelalter, Samml. wis. Vorträge, 13 serie, heft. 312. *Chr. Meyer*, Die anfänge der deutschen gewerbeverfassung, Preus. Jahrbücher, July, 1878. *Stahl*, Das deutsche handwerk u. die bedeutung der arbeiter-association in vergangenheit und gegenwart. *Brentano*, Hist. of Guilds. H. *Schoenberg*, zur wirthsch. bedeutung des deutschen zunftwesens. Trades Unions, Jour. des Econ., Oct., 1878.

## 8. Robert Owen and English Workingmen's Associations. K. J. HAMMOND.

LITERATURE.—Life of *Robert Owen*, Phila. 1866. P. Life of *Robert Owen*, by himself. Lond. 1857. vol. 1. P. A supplementary appendix to vol. 1, Lond. 1858. P. The Pamphleteer, vol. 10. *Robert Owen*, New view of society. Nos. 1, 2. *Robert Owen*, Report to commis. of assoc. for relief of manuf. and laboring poor. P. *Holyoake*, Co-operation in England. P. Encyclop. Britan., "Co-operation." H.

## 9. Schulze-Delitzch and Working Men's Associations in Germany for Self-help. C. E. GRAMMER.

LITERATURE.—11th report of trades union commissioners. pp. 165–178. By *R. D. Morier*. Coöperative wholesale society report, 1873, pp. 115–117; 1872, p. 101. The Coöperator, Nos. 200, 203. Works of *Schulze-Delitzch* (F. A. Herbig, Berlin). *Lassalle*, M. Bastiat u. Schulze-Delitzch. Hughes, Working classes in Europe (Atlas-Essays). H. Journal des Economistes, Vol. I. p. 7. H. *Samuelson*, The German working man. H. *Schulze-Delitzch*, Sociale rechte und pflichten, Sammlung wissenschaftl. Vorträge, Vol. I. P. Meyer's Konversations Lexicon, "Schulze-Delitzch" und "Genossenschaften." H.

## 10. Lassalle and German Social Democracy. G. F. GEPHART.

LITERATURE.—Lassalle's werke. Edinb. Rev., July, 1878. Nineteenth Century, Aug. and Oct. 1878; Feb. 1879. Fortnightly Rev., Feb. and March, 1879. North Amer. Rev., April, 1879. Contemporary Rev., May, 1877. Eclectic Mag., Jan. 1879. *Kaufman*, Socialism. Deutsche Rundschau, Feb. and March, 1878. Zeit und Streit Fragen, heft 108. *Innocens Simplex*, Glaube des socialismus. *Schuster*, Social Demokratie. *Schaeffle*, Socialismus und kapitalismus. Briefe von Ferdinand Lassalle an Carl Rodbertus Jagetzow. "Lassalle," Revue des deux mondes, Dec. 15, 1876.

## 11. Karl Marx, the Internationalists, and the Commune of Paris. T. A. BERRY.

LITERATURE.—*K. Marx*, Das Kapital; Kritik der polit. oekonomie. H. Annual reports of the International, published in London. *Roscher*, Political Economy—See "Marx." See also Gesch. der national oekonomik. *E. E. Fribourg*, L'association international des travailleurs. P. *Villetard*, Histoire de l'internationale. P. (Translated by S. M. Day. New Haven, 1874) H. Histoire de l'internationale, par un Bourgeois Républicain. P. *Oscar Testut*, L'Internationale. P. *Oscar Testut*, L'Internationale et le Jacobinisme, au ban de l'Europe. P. *Jaeger*, Der moderne socialismus u. Karl Marx. H. *Jaeger*, Geschichte der socialen bewegung u. des socialismus in Frankreich. *Woolsey*, Political Science, Vol. I. p. 319. H. Revue Contemporaine, Vol. 5, 1866, Une forme nouvelle du socialisme. P. Journal des Economistes, Apr. 1875, Coup d'œil historique sur l'Internationale. H. Rev. des Deux Mondes, Sept. 1876, pp. 133–149, Le Socialisme contemporaine en Allemagne. Fort. Rev. 1870, The international workingmen's Association. North Amer. Rev., Apr., 1872, International Association. *Pierotti*, Décrets et rapports officiels de la commune de Paris. Nation, Aug. 8, 15, 22, 1878, Socialism in Germany. Rundschau, Mar. 1879, p. 481.

## 12. Distinction between Nihilists, Communists, and Socialists. W. J. THOMAS.

LITERATURE.—Deutsche Rundschau, Aug. 1878, Nihilismus in Russland. Nineteenth Century, May, 1877, June, 1878, Russian revolutionary literature; the social origin of Pessimism and Nihilism in Germany. Fortnightly Rev. Nov. 1, 1878, Socialism in Germany and the U. S. North British Rev., Vol. II., p. 406, Socialism. Deutsche Rundschau, Feb. 1878, Deutschland und der Socialismus. Rev. des Deux Mondes, 1878–9, (A series of articles on German Socialism by *Laveleye*). Nuova Antologia, July, 1878, Il Nihilismo. Rev. des Deux Mondes, 1876–7 (series) L'empire des Tsars et les Russes.

## 13. The Historical School, Socialists of the Chair, and the efforts of German professors to meet the just demands of Socialism. E. GOODMAN.

LITERATURE.—*Knies*, Die politische oekonomie vom standpunkte der geschichtlichen methode. H. *Roscher*, Principles of Political economy. H. *Hildebrand*, Die national oekonomie der gegenwart und zukunft. *Hermann*, Staatswirthschaftliche untersuchungen. *Gneist*, Das reichsgesetz gegen die bestrebungen der socialdemokratie staatsrechtlich erörtert. *Holtzendorf*, Die Principien der Politik. *Worthman*, H. v. Treitschke und die Kathedersocialisten. (Reprinted in Jahrbücher für Nat. oek., 16 Jahrgang, 1 Band, 1 Heft.) H. *E. de Laveleye*, The new tendencies of Political Economy. (In

Banker's Magazine, Feb. 8, 1878.) *Schaeffle*, Die quintessenz des socialismus. *Block*, Die quintessenz des Kathedersocialismus, Journal des Economistes, Nov. 1878. Zeit und Streit Fragen, No. 52, *Laspeyres*, Der Kathedersocialismus. *Bamberger*, Die culturgeschichtliche bedeutung des socialistengesetzes. *Schoenberg*, Die ziele und bestrebungen der socialdemokratie. *Wagner*, Rede über die sociale frage. *Leslie*, The philosophical method of political economy, Hermathena, No. 4, P. and in his essays in Moral and Political Philosophy, H.; Political Economy and Sociology, Fortnightly Rev. Jan., 1879. P. H. *Ingram*, Economic science and statistics, Journal of statistical Soc., Dec., 1878. H. P. *Bagehot*, Fortnightly Rev., Feb'y, 1876. *Lowe*, Recent attacks on Political Economy, Nineteenth Century, Nov., 1878. *Held*, Socialismus, Jahrb. für Gesetzgebung, 1 Bd., 1 Heft, 1877. H.

14. Strikes. JESSE HAY.

LITERATURE.—*Walker*, The wages question. H. Quart. Rev., Vol. 106, No. 212, and Vol. 132, No. 268. Brit. Quart. Rev., Vol. 56, No. 110. North Amer. Rev., Vol. 116, No. 238; Vol. 105, No. 216, No. 258. Edinb. Rev., Vol. 59, No. 120; and Vol. 67, No. 135. Presbyter. Quart. and Princeton Rev., Oct., 1877. Black. Mag. Vol. 79, No. 483. Western Rev., Vol. 18, No. 1; Vol. 20, No. 2. *Goldwin Smith*, Labor war in the U. S. Contem. Rev., Sept., 1877. *Fried. Kapp*, Der jüngste aufstand der Eisenbahnarbeiter in den vereinigten staaten, Preus. Jahrb., Oct., 1877. *Rich. Vaux*, Annual Report of the Secretary of Internal Affairs of the Com. of Penn Industrial Statistics, Part III. Vol. V. 1876–7, "Strikes."

15. An historical survey of the distinctive doctrines of the leading English Economists since Adam Smith. N. PALMER.

LITERATURE.—*McCulloch*, The literature of Political Economy. P. *Blanqui*, Economie politique. H. *Kautz*, Die geschichtliche entwickelung der national-oekonomik und ihrer literatur. *Jevons*, The future of Polit. Econ., Fort. Rev., Nov. 1, 1876.

16. The progress of economic science in the United States. A. C. PALMER.

LITERATURE.—Economic science in America. North American Rev., 1876. *Kautz*, Die geschichtliche entwickelung der national oekonomik.

A similar co-operative course in the History of Political Economy was undertaken and is still conducted by Dr. R. T. Ely, of the Johns Hopkins University. A product of this latter course is a volume on "French and German Socialism in Modern Times," (Harper & Brothers, 1883). The book

" is based on lectures delivered in Baltimore before the students of the Johns Hopkins University and in Ithaca before the students of Cornell University." Although strictly Dr. Ely's own work and not the work of his students, the book was written in an atmosphere of student co-operation and student inquiry in the same field.

This work is now advancing along the lines of Christian Socialism and American Communism and Socialism. For the former topic Dr. Ely has obtained fresh materials from Thomas Hughes and other English sources. For the latter topic the socialistic and communistic newspapers published in this country, and the socialistic organizations that exist in some of our large cities[1] are fountain heads of information. On one occasion Dr. Ely took representatives of his class to hear the address given to Baltimore workingmen by Most, the German communist, and was sharply criticised by one of the German papers for so doing. But this is the true way to investigate Communism. Dr. Ely has lately given a lecture upon some of the more recent phases of American Socialism, based upon a collection of American socialistic tracts, pamphlets and newspapers which he has been gathering for over a year. He is now preparing, with the co-operation of some of his advanced students, a monograph upon the history of political economy in the United States, and by himself, a larger work upon the history of political economy in general.

Mr. Albert Shaw, one of our graduate students, prepared his monograph on "Icaria:" a chapter in the history of American communism (soon to be published in this series) not simply by reading Nordhoff's Communistic Societies in America, but by going in person to an Icarian community in south-western Iowa, and there interviewing Jean Baptiste

[1] Henry A. James, author of a Yale John A. Porter Prize Essay (1878) on "Communism in America" (New York, H. Holt & Co., 1879), gathered material for his work by interviewing the communists in their city-haunts. A similar paper on "American Socialism" was prepared in the same way by Mr. James for the Historical and Political Science Association of the Johns Hopkins University.

Gerard, A. A. Marchand, and other old associates of Cabet. Mr. Shaw spent a week with these men. He read, in communistic libraries, the original French literature upon the subject of Icaria, rare tracts by Cabet; there he had access to French newspapers edited by Cabet, and to a set of the *Revue Icarienne,* published at Nauvoo, Illinois, that comfortable old Mormon nest into which the Icarians, for a time, settled down in peace and prosperity. In those simple agrarian communities of our western country, Mr. Shaw found some of the now harmless factors of the Paris Commune of 1871, men of the keenest intellect and boldest ambitions, professedly still busy with their schemes and correspondence, but really vegetating upon the broad prairies and going quietly to seed as excellent farmers and good citizens.

## Political Economy.

In Political Economy proper, as well as in the History of Political Economy, the same method of original research and student-lectures is pursued with gratifying results. Among the graduate efforts in this department have been lectures on Predecessors of Adam Smith in England, Adam Smith, the Theory of Population, the Economic Functions of Government, the Physiocrats, Jean Baptiste Say, Bastiat, Political Economy in America previous to Henry C. Carey, the Carey School of Political Economy, American Economics since Henry C. Carey, the National Banking System, the Income Tax, the Financial History of the United States during the Civil War, effects of the reduction of the Internal Revenue Taxes upon the Baltimore consumer, the Financial History of Baltimore, Finances of Kentucky, Finances of Pennsylvania. Among undergraduate efforts have been discussions of the Formation and Growth of Capital, Rent, Wages, Interest, Bimetallism and Monometallism, Communistic Experiments in the United States, Independent Treasury, Direct and Indirect Taxation.

This method of co-operative class-work in Political Economy is pursued with great success by Professor Henry C. Adams, at Cornell and Michigan Universities. The students prepare papers or reports on special themes connected with the regular work. The professor himself gives systematic courses of class-lectures, elementary and advanced. The elementary course, to be given this year (1884) at Cornell, "will consider the history and development of economic thought since 1550, the basis of political economy, production, exchange, and distribution. The advanced course will be upon practical economic problems of the present time, among which will be the questions of free trade and the tariff. Professor Adams accepts very largely the views of the English economists on the tariff question. He will consider the analysis of international trade as compared with domestic trade, for the purpose of determining whether the principles which regulate the one apply, without modification, to the other. He will consider also the theory of protection, the theory of free trade, reciprocity, protection in its relation to public revenue, tariff legislation in the United States, the order in which modifications in the existing tariff should be undertaken, and the rapidity with which the country may, without disaster, be brought to the realization of its just policy. Professor Adams first proposes to state the problem of the tariff on both sides, then ask the student to study the various industries in the country to determine how far they are self-supporting and what ones need protection, finishing with a few lectures on the history of the tariff in the United States."[1] At Michigan University Dr. Adams has conducted similar courses and, in his Financial Seminary, has encouraged co-operative studies among his pupils, particularly in writing the History of American Taxation.

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[1]Extract from the letter of an Ithaca correspondent published in the New York Tribune, Feb. 13, 1884.

## American History.

The same method is pursued in the study of American History by graduate students, who co-operate with their instructor in surveying the colonial and constitutional fields. On this home-ground, student-lectures, based upon an examination of existing authorities and certain original materials, lead gradually to independent investigations and thus to scientific contributions to the Seminary, if not to the University Studies in Historical and Political Science. Without quoting, in this connection, the topics in American Institutional and Colonial History, lately pursued by a class of graduate students at the Johns Hopkins University, I would call attention to the new departure[1] recently made at Harvard University, in the co-operative study of American Constitutional History by a class of undergraduate students (Sophomores and Juniors) under the direction of Dr. Albert B. Hart, a former pupil of Von Holst's at the University of Freiburg, where Mr. Hart lately took his degree as doctor of philosophy.

During the present academic year at Harvard University, the instructor has given his class a systematic course of lectures upon the outlines of American Constitutional History. A syllabus or analysis of this course, together with a list of authorities and an elaborate system of references was prepared by Dr. Hart and was printed by the class at its own

[1] This new departure was quickened by earlier efforts. The success of Dr. Freeman Snow's course, in 1882–83, on the Constitutional and Political History of the United States was very remarkable in point of attendance. There were 163 who followed the lectures, including 1 graduate, 85 seniors, 62 juniors, 8 sophomores, 6 specials, and 1 scientific. The character of the course was of a high order, if one may judge from the published "Guide to the study of the Constitutional and Political History of the United States," (Cambridge, W. H. Wheeler, 1882–3) which was intended as the basis of the lectures and for the encouragement of private study. This outline history of the United States Constitutional History with historical references is among the most serviceable yet prepared.

expense. The lectures considered such preliminary conceptions as History, definitions of a constitution and characteristics of a State; the Constitution of England at the outbreak of the Revolution; Institutions of the United States derived from England; the Colonists, their government and relations with England, early schemes for a Union of the Colonists; Colonial Union; Independence; formation of the Confederation; conflicts of the Confederation with the States; weakness of the States; proposed amendments of the articles of Confederation; the Constitutional Union; scope of the Constitution; origin and nature of the Constitution; organization of the Government; early Constitutional questions; Acts putting into effect clauses of the Constitution; questions relating to the States; Constitutional questions of national policy; Washington's first Administration; foreign relations with France and England; the Whiskey Rebellion; the Jay treaty; Legislation; Relations with Spain; Alien and Sedition Acts; Virginia and Kentucky Resolutions; the Supreme Arbiter; interposition as a remedy for usurpation; fall of the Federal party; policy of the Republican party; the Public Lands; the Louisiana annexation.

Thus far the course has advanced. The printed syllabus is significant in various ways. It represents, first and foremost, a leading mind, well-trained by a great master in American Constitutional History, and guiding the thoughts of students into the most profitable channels. It signifies in itself a clean-cut, sharply-defined, well-arranged collection of historical topics. There are divisions and sub-divisions to each general head, with references on almost every important point. The following is a conspectus of the various aspects from which the general topic of Independence was presented by the lecturer. *Ab uno disce omnes.*

*Independence.*

1. EARLY SUGGESTIONS.—Chalmer's charge. *Froth.* 154 *n.* —Denied by the colonists. *John Adams X,* 394.—Foreign

predictions. *De Witt's Jefferson*, 40, 408; *Froth.*—Censured up to 1775. *Von Holst I*, 2.

2. Preparatory Steps.

1775. May 31. Mecklenburg Resolutions. *Froth.* 423 *n.*
Nov. 3. Advice to N. H. to form a gov't. *Froth.* 447–8.

1776. Mar. 23–May 14. Instr. of six states. *Froth.* 528, 499–511.
May 15. Congress adopts the principle of independence. *J. C. II*, 160, 166, 174.
June 11–21. Committee to draft. *Froth.* 513–17. Further instructions. *Froth.* 521–30.
July 4. Declaration of Independence.

3. Nature and Bearing.

*a.* Statement of certain "Self-evident truths." Vast influence, but no legal, binding force.
*b.* Statement of grievances. Ex-parte.
*c.* Statement of the independence and sovereignty of the colonies: a political fact, not yet proved.
*d.* The achievement of the whole for all. *Story*, § 211.

New State Governments. Texts in *Charters and Const's.*

1775. "Transylvania." *Froth.* 444.
1776. Jan. 5. N. H. *J. C. I.* 231; *Froth.* 493, 567.
Mar. 26. S. C. *J. C. I.* 235; *Froth.* 494.
May 4. R. I. *Froth.* 565.—(May or June) Conn.
June 29. Va. *J. C. I*, 279; *Froth.* 511–12.
July 2. N. J. *Froth.* 564.
Mass. *J. C. I*, 115; *Froth.* 428, 441, 491, 506.
Sept. 26. Del. *Froth.* 504.
Sept. 28. Pa. *Am. Archives V, ii*, 54; *Froth.* 565.
Oct. 18. N. C. *Fr.* 566.
Nov. 8. Md. *Froth.* 564.
1777. Apl. 20. N. Y. *Froth.* 451, 566.—Vt. *McM. I*, 347.

UNION OLDER THAN THE STATES. Three theories.

1. Particularist view. *Calhoun I,* 190.
2. Temporary alliance view. Jefferson *in Von Holst I,* 7 *n.*
3. National view. Lincoln in *Cong. Globe,* 1861, *Spec. Sess. App.*

Every student in the class is expected to consult at least one of the authorities mentioned in connection with each heading printed in small capitals. The other references are merely recommended. Mr. Hart writes that he encourages the preparation of theses, suggests subjects to those who ask for them, and explains the best methods of work. The following topics for original research have been undertaken by members of the class in American History, in co-operation with the class-course given by the instructor. Such undergraduate work as this lies upon the borders of the Seminary method and will lead to the most advanced lines of study:

Hamilton as a New York Politician; Madison in Virginia Politics; Jefferson as a Virginia Politician; Influence of James Wilson in the Federal Constitution; History of the Nomination of Presidential Candidates; the Relation of the President to his advisers; Encroachments on the Executive Power; History of Amendments to the Constitution; Instruction of Senators; Schemes of Disunion before 1860; Schemes for the Annexation of Cuba; Sales of Public Lands; History of the Debt of the U. S.; History of the Internal Revenue of the U. S.; Repudiation of State Debts; the Disposition of Surplus Revenue; Railroad Land Grants; Banking Systems in the U. S.; International Relations of the Colonies; Fries' Insurrection; Dorr Rebellion; Campaigns of Jacob Brown; French Spoliation Claims; Spanish Treaty of 1819; Slave Insurrections; Fugitive Slave Cases; Slavery in the Free States; the Slave Trade; History of State Boundaries.

Mr. Hart has printed a few suggestions for thesis writers which deserve circulation among all friends of good historical methods.

*Suggestions for Thesis Writers.*

1. Be sure you are willing to do the necessary WORK.
2. Select a SUBJECT which interests you, if possible in a limited field, but over a long period.
2. Begin by noting the chief AUTHORITIES.
   *a.* Furnished by the instructor.
   *b.* In Poole's Index.
   *c.* In the Subject Catalogue.
   Write the title, author (with initials), place and date.
4. Have a SYSTEM OF NOTE TAKING.
   *a.* Note only one subject on each piece of paper.
   *b.* Note the authority for each quotation or abstract, volume and page.
   *c.* Preferably use loose sheets, arranging as you go.
5. From the general authorities, make out a SYNOPSIS of the chief points which are to be studied, observing:
   *a.* New authorities and references for extension of details;
   *b.* Chronological development;
   *c.* Salient sub-heads of your subject.
6. Extend the DETAILS which appear to you to need further examination. If necessary make synopses of the sub-heads. Make *references* for other sub-heads, but abstract them later.
7. ARRANGE your sheets of notes in a logical form, sub-heads under main heads. Choose between chronological, or topical arrangement, or a combination.
8. COMPOSE the thesis.
   *a.* First settling the proportions.
   *b.* Introducing striking quotations.
   *c.* Giving exact references for all important statements of fact.
9. Add a BIBLIOGRAPHY of authorities with brief remarks on the bearing of the most important.

## 4.—THE SEMINARY METHOD.

The *Seminarium*, like the college and the university, is of ecclesiastical origin. Historically speaking, the seminary was a nursery of theology and a training-school for seminary priests. The modern theological seminary has evolved from the mediæval institution, and modern seminary-students, whether at school or at the university, are only modifications of the earlier types. The Church herself early began the process of differentiating the ecclesiastical seminary for the purposes of secular education. Preachers became teachers, and the propaganda of religion prepared the way for the propaganda of science. The seminary method of modern universities is merely the development of the old scholastic method of advancing philosophical inquiry by the defence of original theses. The seminary is still a training-school for doctors of philosophy; but it has evolved from a nursery of dogma into a laboratory of scientific truth.

A young American, Professor of Greek at Dartmouth College, John Henry Wright, in an admirable address on the Place of Original Research in College Education, explains very clearly the transitional process from the theological seminary to the scientific seminary. "The seminaries were instituted that theological students, who expected to teach on the way to their profession, might receive special pedagogical training in the subjects in which they would be called upon to give instruction in the schools. As the subject-matter of liberal instruction was mainly the languages and literatures of Greece and Rome, the seminaries became philological in character. The first seminary that actually assumed the designation of philological was that founded at Gœttingen in 1733, by Gesner the famous Latinist. This seminary has been, in many respects, the model for all later ones."[1]

[1] An address on The Place of Original Research in College Education, by John Henry Wright, Associate Professor of Greek in Dartmouth College,

The transformation of the *Seminarium* into a laboratory of science was first accomplished more than fifty years ago by Germany's greatest historian, Leopold von Ranke. He was born in the year 1795 and has been Professor of History at the University of Berlin since 1825. There, about 1830, he instituted those practical exercises in historical investigation (*exercitationes historicae*) which developed a new school of historians. Such men as Waitz, Giesebrecht, Wattenbach, Von Sybel, Adolph Schmidt, and Duncker owe their methods to this father of historical science. Through the influence of these scholars, the historical seminary has been extended throughout all the universities in Germany and even to institutions beyond German borders. Let us consider a few seminary types.

## Heidelberg Seminaries.

At the university of Heidelberg, as elsewhere in Germany, there are seminaries for advanced training in various departments of learning, chiefly, however, in philology and in other historical sciences. The philological seminary, where the use of the Latin language for formal discussion is still maintained at some universities, is perhaps the connecting link between mediæval and modern methods of scholastic training. In the Greek seminary of the late Professor Koechly, at Heidelberg, the training was pre-eminently pedagogical. The members of the seminary took turns in occupying the Professor's chair for one philological meeting, and in expounding a classical author by translation and comment. After one man had thus made trial of his abilities as an instructor, all the other members

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read before the National Educational Association, Department of Higher Instruction, July 14, 1882, Saratoga, N. Y. From the Transactions, 1882. This address and Prof. E. Emerton's recent contribution on "The Historical Seminary in American Teaching," to Dr. G. Stanley Hall's volume on Methods of Teaching and Studying History, are the best American authorities on the Seminary Method.

took turns in criticising his performance, the Professor judging the critics and saying what had been left unsaid.

In the historical seminary of Professor Erdmannsdoerffer, the method was somewhat different. It was less formal and less pedagogical. Instead of meeting as a class in one of the university lecture-rooms, the historical seminary, composed of only six men, met once a week in a familiar way at the Professor's own house, in his private study. The evening's exercise of two hours consisted in the critical exposition of the Latin text of a mediæval historian, the *Gesta Frederici Imperatoris*, by Otto, Bishop of Freising, who is the chief original authority upon the life and times of Frederic Barbarossa. As in the Greek seminary, so here, members took turns in conducting the exercises, which, however, had less regard for pedagogical method than for historical substance. Each man had before him a copy of the octavo edition of Bishop Otto's text, and the conductor of the seminary translated it into German, with a running comment upon the subject matter, which he criticised or explained in the light of parallel citations from other authors belonging to Bishop Otto's time, who are to be found in the folio edition of Pertz's *Monumenta Germaniae Historica*.

From this method of conducting the seminary, it would appear as though one man had all the work to do for a single evening, and then could idly listen to the others until his own turn came once more. But it was not so. Subjects of discussion and for special inquiry arose at every meeting, and the Professor often assigned such subjects to the individuals most interested, for investigation and report. For example, he once gave to an American student the subject of Arnold of Brescia, the Italian reformer of the twelfth century, who was burnt to death in Rome in 1155, having been delivered up to the pope by Frederic Barbarossa. The investigation of the authorities upon the life-work of this remarkable reformer, the precursor of Savonarola and of Luther, occupied the student for many weeks. On another occasion, Seminary dis-

cussion turned upon the origin of the Italian Communes, whether they were of Roman or of Germanic origin. An American student, who had been reading Guizot's view upon the origin of municipal liberty, ventured to support the Roman theory. The Professor referred the young man to Carl Hegel's work on the Constitution of Italian Cities and to the writings of Von Maurer. That line of investigation has occupied the American student ever since 1876, and the present work of the historical seminary at the Johns Hopkins University is to some extent the outgrowth of the germ brought to Baltimore from the Heidelberg seminary.

### Bluntschli's Seminary.

As an illustration of seminary-work, relating more especially to modern history and modern politics, may be mentioned the private class conducted for two hours each week in one of the university rooms by the late Dr. J. C. Bluntschli, professor of constitutional and international law at Heidelberg. In his seminary, the exercises were in what might be called the comparative constitutional history of modern European states, with special reference to the rise of Prussia and of the new German empire. Bluntschli himself always conducted the meetings of the seminary. Introductory to its special work, he gave a short course of lectures upon the history of absolute government in Prussia and upon the influence of French and English constitutional reforms upon Belgium and Germany. He then caused the seminary to compare in detail the Belgian constitution of 1830 with the Prussian constitution of 1850. Each member of the seminary had before him the printed texts, which were read and compared, while Bluntschli commented upon points of constitutional law that were suggested by the texts or proposed by the class. After some weeks' discussion of the general principles of constitutional government, the seminary, under Bluntschli's skilful guidance, entered upon a special and individual study of the relations between

church and state, in the various countries of Europe, but with particular reference to Belgium and Prussia, which at that time were much disturbed by conflicts between the civil and the ecclesiastical power. Individual members of the seminary reported the results of their investigations, and interesting discussions always followed. The result of this seminary-work was an elaborate monograph by Bluntschli himself upon the legal responsibility of the Pope, a tractate which the Ultramontane party thought inspired by Bismarck, but which really emanated from co-operative studies by master and pupils in the Heidelberg seminary.

### Seminary of Political Economy.

At Heidelberg a seminary in political economy is conducted by Professor Knies, who may be called the founder of the historical method as applied to this department. His work on Politische-oekonomie vom Standpunkt der geschichtlichen Methode was published in 1853 and ante-dates the great work of Roscher by one year. The seminary method encouraged by Knies consists chiefly in the reading and discussion of original papers by his pupils upon assigned topics. The latter were sometimes of a theoretical but quite frequently of an historical character. I remember that such topics as Turgot's economic doctrines were often discussed. The various theories of wealth, from the French mercantilists and physiocrats down to Henry C. Carey, were examined. The meetings of the seminary were held every week and were not only of the greatest service in point of positive instruction, but also, in every way, of a pleasant, enjoyable character. Men learned to know one another as well as their professor. A most valuable feature of the seminaries in political science at Heidelberg was a special library, quite distinct from the main university library. Duplicate copies of the books that were in greatest demand were at the service of the seminary.

## The Historical Seminary at Bonn.[1]

The object of this seminary, as of all German historical seminaries, is to introduce special students to the best methods of original research. The Bonn seminary is one of the most flourishing in all Germany. It is an endowed institution. It was instituted in the year 1865 and enjoys the income of a legacy of forty thousand marks left it by Professor Wilhelm Pütz. The income is devoted to three stipends, each of about 600 marks, for students of history and geography who have successfully pursued one or both of these sciences for two years. Said stipends are awarded annually by the philosophical faculty upon recommendation by the director of the seminary. It is said that a student of Bonn university has a better chance of obtaining such stipend than does a candidate from outside. In addition to this endowment of ten thousand dollars, the Bonn seminary of history is allowed a special appropriation, in the annual university budget, for general expenses, for increasing the seminary library, and for the director's extra salary. Any unused balance from the fund devoted to general expenses is expended for library purposes.

The historical seminary of Bonn has now four sections, each under the guidance of a professor, representing a special field of history. The four professors constitute a board of control for the entire seminary. The director is appointed from year to year, the four professors rotating in the executive office. The student membership for each section is restricted to twelve. The meetings occur once a week, from 5 to 7 o'clock in the evening. All members are expected to be present, although no individual student makes more than one contribution during a semester. Members are subject to expulsion by the board of control for failure to discharge any obligations, for inadequate work, or for mis-use of the library.

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[1] See L'Université de Bonn et l'enseignement supérieur en Allemagne, par Edmond Dreyfus-Brisac, (editor of the Revue international de l'enseignement). "Les Séminaires."

The library consisted, in 1879, of 308 works, and was kept in the charge of one of the members of the seminary. Among the books noticed by Dreyfus-Brisac, at the the time of his visit, were the Monumenta Germaniae Historica, Fragmenta Historicorum Græcorum, Corpus Inscriptionum Latinarum, Corpus Inscriptionum Atticarum, the complete works of Luther, the Annales Ecclesiastici edited by Baronius, Corpus Scriptorum Historiae Byzantinae, Muratori's Scriptores Rerum Italicarum, The Glossary of Mediæval Latin, by Ducange, a set of Sybel's Historische Zeitschrift, Forschungen (Munich), the writings of Curtius, Mommsen, Ranke, Sybel, etc.

Dreyfus-Brisac mentions other seminaries at Bonn University, notably that of the late Professor Held in Political Economy, held privately in his own house, and the pedagogical seminary of Bona-Meyer. The observing, critical Frenchman says that he knows of nothing more remarkable in German educational methods, nothing more worthy of imitation, than the seminaries of Bonn.

### An American Student on German Seminaries.

Dr. Charles Gross,[1] an American student who has recently taken the degree of Doctor of Philosophy at Gœttingen in the department of History, with the highest honors, and who is now studying English Municipal History in the British Museum, has written by request the following account of German historical seminaries, in which he has had long and varied experience: "The German historical seminary aims to inculcate the scientific method. It is the workshop in

[1] Dr. Gross presented for his doctor's dissertation at Gœttingen a thesis on the *Gilda Mercatoria*, an important contribution to English municipal history, originally suggested by the late Professor Pauli. The subject has an interesting bearing upon the merchant associations, which furnished men, capital, and government for the English colonies in America. Dr. Gross is now writing an Introduction to American Municipal History, to be published in this series.

which the experienced master teaches his young apprentices the deft use of the tools of the trade. In the lecture room the professor presents the results of his investigations; in the *Seminar* (or *Uebungen*) he shows just what he had to do in order to secure those results. The German student lays far more stress upon his *seminar* than upon his lectures. He may "cut" the latter for weeks at a time, while he is very assiduous in his attendance upon the former. The latter may be obtained from books or from the *Heft* of some more conscientious student; but the scientific method, the German maintains, is the gift of time and the seminary only,—the result of long contact between the mind of the master and the mind of the disciple.

"Two different kinds of work predominate in the German historical seminary: the writing of short theses (*Kleine Arbeiten*) or the critical reading of some document or documents, more frequently of some chronicler or chroniclers. The professor selects a list of subjects for theses from the field of his special line of investigation and assigns them to the students, the latter's particular tastes being generally consulted. A member of the seminary rarely has more than one thesis during the semester, frequently not more than one during the year, and during his first two or three semesters none at all. The professor points out the sources and authorities, and the student consults with him whenever difficulties arise in the preparation of the work. One or two critics (*Referenten*) are appointed for each thesis, who comment upon the production after it has been read. A free discussion of the subject then follows, the professor and students doing all in their power to show the utter lack of *Wissenschaft* in the author's method.

"As regards the other element of seminary work, *viz.*, critical reading of some chronicler, to each student is assigned a certain portion of the text, which,—with the aid, if necessary, of other contemporaneous sources pointed out to him by the professor—he is expected to treat in accordance with the canons of historical criticism, the other students commenting *ad libitum*.

"Now these two elements are variously combined in different *Seminars*. Generally both are carried on side by side, an hour perhaps being taken up with the thesis and the other hour of the session with some text. (That, *e. g.*, is the plan of Prof. Bresslau of Berlin). Sometimes the seminary is divided into two sections, one for the *Kleine Arbeiten* and the other for the critical manipulation of some chronicler (*e. g.* Giesebrecht's *Seminar* in Munich). Sometimes one of the two elements is excluded (v. Noorden in Berlin had no theses in my day; Droysen nothing but theses). Sometimes the students are not required to do any work at all, the professor simply commenting upon some text for an hour or two. (That was Weizsäcker's and Pauli's method)."

## Paul Frédéricq on German Lectures and Historical Seminaries.

One of the best accounts of German university instruction in history is that given by Paul Frédéricq, Professor in the University of Liège, Belgium. He made two excursions to German university-centres in the years 1881 and 1882, and published a most instructive article in the *Revue de l'instruction publique (supérieur et moyenne) en Belgique*, in 1882. The article is entitled, *De l'enseignement supérieur de l'histoire.*[1] It will probably be soon translated for publication in America. M. Frédéricq visited Berlin, Halle, Leipzig, and Gœttingen. He describes, in a pleasant way, the various lectures that he attended, the professors he met, and the methods that he learned. To one acquainted with life at the Berlin university, its professors of history, and its lecture-courses, M. Frédéricq's picture seems almost perfect. One sees again, in fancy, Heinrich von

[1] Another good authority upon the subject of German seminaries is M. Charles Seignobos, of Dijon, France, in his critical article on l'enseignement de l'histoire dans les universités allemandes, published in the *Revue internationale de l'enseignement*, June 15, 1881. Cf. pp. 578–589.

Treitschke, the brilliant publicist and eloquent orator, with his immense audiences, everyone of them an enthusiastic seminary of Prussian Politics. The following felicitous sketch of Gustav Droysen will be appreciated by all who have seen that distinguished professor in the Katheder: "Je le vois encore, tenant en main un petit cahier de notes à converture bleue et accoudé sur un grossier pupitre carré, exhaussé au moyen d'une allonge, qui se dressait à un demi-mêtre au-dessus de la chaire. Il commença à mi-voix, à la manière des grands prédicateurs français, afin d'obtenir le silence le plus complet. On aurait entendu voler une mouche. Penché sur son petit cahier bleu et promenant sur son auditoire des regards pénétrants qui perçaient les verres de ses lunettes, il parlait des falsifications dans l'histoire. . . . A chaque instant une plaisanterie très réussie, toujours mordante et acérée, faisait courir un sourire discret sur tous les bancs. . . . . J'y admirai la verve caustique, la clarté et la netteté des aperçus, ainsi que l'habileté consommée avec laquelle le professeur lisait ses notes, de maniére à faire croire à une improvisation."

The historical seminary conducted by Professor Droysen is one of the best at the University of Berlin. Although Professor Frédéricq failed to obtain access to this seminary as well as to that of Mommsen's, being told *qu' on y exercait une critique si sévère, si impitoyable que la présence d'un étranger était impossible*, yet he quotes in a work[1] more recent than the article above mentioned the observations made in 1874 by his colleague, Professor Kurth, of Liège: "M. Droysen, dans sa *Société historique*, tient aux travaux écrits, parce qu' ils semblent donner plus de consistance aux études et que c'est quelque chose qui reste; ils fournissent plus facilement l'objet d'une discussion, ils font mieux apprécier le degré de force d'une élève ainsi que ses aptitudes scientifiqes; enfin, ils permettent

[1] De l'enseignement supérieur de l'histoire en Belgique, XV. Published as an introduction to the Travaux du Cours Pratique d'Histoire National de Paul Frédéricq. [Gand et La Haye, 1883.]

à ses condisciples de profiter mieux de son travail. La correction de celui-ci en effet, est confiée à un autre élève qui, sous les auspices du professeur, en critique les erreurs et le discute dans la réunion suivante avec l'auteur; de là, des controverses souvent animées, auxquelles chaque assistant peut prendre part, et qui offrent l'aspect d'une véritable vie scientifique."

M. Frédéricq describes with evident pleasure the privilege he enjoyed, through the courtesy of George Waitz, in being admitted to the latter's seminary, held every Wednesday evening, for two hours, in his own house. The seminary consisted of nine students. They were seated at two round tables, which were loaded with books. The students had at command the various chronicles relating to the times of Charles Martel. The exercise consisted in determining the points of agreement and disagreement among original authorities, with reference to a specific line of facts, in how far one author had quoted from another, &c. "The professor asked questions in a quiet way, raised objections, and helped out embarrassed pupils with perfect tact and with a kindly serenity." M. Frédéricq noticed how, at one time, when a student had made a really original observation, the professor took out his pencil and made a note of it upon the margin of his copy of the chronicle. In such simple ways the spirit of independent thought and original research is encouraged by one of the greatest masters. George Waitz is the successor of G. H. Pertz as editor of the *Monumenta Germaniae Historica.* To see upon the professor's desk great bundles of printer's proofs for this vast work, only deepened M. Frédéricq's impressions that here in this private study was really a workshop of German historical science.

### Seminaries of Art and Archæology.

M. Frédéricq describes another phase of historical training which is eminently worthy of imitation in all colleges or universities, where there is convenient access to an archaeological

museum. Ernst Curtius is perhaps even more famous in Berlin as a classical archaeologist than as the historian of Greece. His lectures upon Grecian art are accompanied by a weekly visit of his class to the museum, where an hour or two is spent in examining plaster-casts and fragments of antique sculpture under the guidance of Curtius himself. Having enjoyed this very experience on many occasions in Berlin, the writer can attest the literal truth of the following description:

"L'après-midi, M. Curtius nous avait donné rendez-vous au Musée des antiques où il fait chaque semaine une leçon sur l'archéologie grecque et romaine. A son arrivée les étudiants qui l'attendaient en flânant à travers les collections, le saluèrent silencieusement, puis remirent leur chapeau. M. Curtius resta couvert aussi et commença sur-le-champ sa promenade de démonstrations archéologiques. Armé d'un coupe-papier en ivoire, il allait d'un objet à l'autre, expliquant, indiquant les moindres particularités avec l'extremité de son coupe-papier, tantôt se haussant sur la pointe des pieds, tantôt s'agenouillant pour mieux détailler ses explications. A un moment même il se coucha par terre devant un trépied grec. Appuyé sur le coude gauche et brandissant de la main droite son fidèle coupe-papier, il s'extasia sur les formes élégantes et sur les ornements ravissants du petit chef-d'œuvre. On comprend aisément combien des leçons faites avec chaleur par un tel professeur, dans un musée de premier ordre, doivent être utiles aux élèves. La leçon que j'ai entendue ne roulait que sur des points secondaires: trépieds, candélabres, vases en terre cuite, etc., et malgré cela il s'en dégageait une admiration communicative et une sorte de parfum antique. On m'a assuré que lorsqu'il s'occupe de la statuaire, M. Curtius atteint souvent à l'éloquence la plus majestueuse; et je le crois sans peine."

The same method of peripatetic lectures, as described by M. Frédéricq, was also pursued when I was in Berlin, 1874–5, by Herman Grimm for the illustration of art-history. Once a week he would meet his class at the museum for the exami-

nation of works illustrating early Christian plastic and pictorial art, for example, that of the Catacombs; also works illustrating Byzantine and Germanic influences, and the rise of the various Italian, French, German, and Flemish schools of painting and sculpture. More was learned from Grimm's critical commentary upon these works of art, whether originals, photographs, or engravings, than would be possible from almost any course of lectures upon the philosophy of art or æsthetics, without concrete realities to teach the eye. The wealth of that great museum of Berlin—for student-purposes one of the finest in the world—is best appreciated when a man like Grimm or Curtius points out its hidden treasures.

The same illustrative methods in ancient and modern art were also practiced by the late Professor Stark, the archæologist and art historian of Heidelberg. Although the museum of the latter university is small, when compared with that of Berlin, yet it serves to illustrate what any institution of moderate resources can accomplish for its students in the way of supplying original sources of art-history, at least in the shape of casts, photographs, and other *fac simile* reproductions of artistic objects. If Stark did not have original tripods, candelabras, and terra cottas, he had, nevertheless, images of almost every important object mentioned in his lectures. One of the exercises in Stark's archæological seminary consisted in the explanation at sight, by individual members, of pictorial representations upon Greek vases, which were inexpensively reproduced in colored plates, so that every man could have before him a copy of the work under discussion. There is a great future for American student-research in the field of art-history, which Herman Grimm used to call *die Blüthe der Geschichte*. The quick success in England of Dr. Charles Waldstein, a pupil of Stark's at Heidelberg, shows what possibilities there are beyond German borders for the science of art and archæology. The popularity of Professor Norton's seminary and art-courses at Cambridge, Massachusetts, shows that interest in such matters is kindling upon this side of the

Atlantic. The art collections begun by Yale, Amherst and Smith, Vassar and Cornell, Michigan, and Johns Hopkins University indicate that the day of art seminaries is not far off. Indeed, since this writing, there was instituted (March 1, 1884,) in Baltimore a so-called Art-Circle, consisting of about twenty graduate students, under the direction of Dr. A. L. Frothingham,[1] a fellow of the University, who has lived many years in Rome and is a member of the Società dei Cultori dell' Archeologia cristiana. The Circle will meet every Saturday morning in the library of the Peabody Institute, and, under the guidance of Dr. Frothingham, will spend an hour or two in the examination of plates, photographs, and other works illustrating the history of art. The subjects of study for this semester are: the catacomb frescoes; the sarcophagi; mosaics; ivory sculpture; metal sculpture; romanesque architecture; gothic architecture; sculpture in France (gothic period); renaissance sculpture in Italy; schools of painting in Italy in the fourteenth and fifteenth centuries. An art-club, with eight members, has also been instituted among the undergradutes for the systematic reading of art-history.

## Seminary Libraries.

One of the most interesting and important features of the German historical, political, and archaeological seminaries is

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[1] Dr. Frothingham is the author of the following monographs: L'Omelia di Giacomo di Sarûg sul Battesimo di Constantino Imperatore (Reale Accademia dei Lincei, 1881–2); Il Tesoro della Basilica di S. Pietro in Vaticano dal XIII al XV Secolo (Roma, 1883); Une Mosaïque Constantinienne inconnue à Saint-Pierre de Rome (Revue Archéologique, Paris, 1883); Les Mosaïques de Grottaferrata (Gazette Archéologique, for December, 1883–January, 1884); Letter to the Society for Biblical Archæology on a Hebrew inscription on a mosaic of the V cent. at Ravenna.

Dr. Frothingham and Dr. Alfred Emerson (fellow of Greek and classical archæologist) have been the most active spirits in lately founding an Archæological Society in Baltimore, which will enjoy the co-operation of distinguished archæologists in the old world.

the special library, distinct from the main university collections. We have already noticed the existence of such libraries at Heidelberg and Bonn; and it may be said in general that they are now springing up in all the universities of Germany. So important an auxiliary have these seminary-libraries become that in some universities, where the seminaries have been recognized by the state, a special appropriation is granted by the government for library purposes. The government of Saxony granted Professor Noorden of Leipzig 6,500 marks for the foundation of his seminary-library and an annual subsidy of 1,200 marks. This revenue for the purchase of books is considerably increased by a charge of ten marks per semester, paid by every student who has access to the seminary-library. The privileges of this working-library are regarded as analogous to the privileges of using laboratory apparatus or attending a clinique.

In addition to a special library, German seminaries are now procuring special rooms, not only for regular meetings, but for daily work. The historical seminary at Leipzig, embracing four sections like that at Bonn, has had, since 1880, five rooms at its disposal; one consultation-room or *Sprechzimmer* for the professors, one room for maps and atlases, and three large rooms where the students work, with their special authorities around them. Every student has for himself a table containing a drawer of which he keeps the key. The rooms are inaccessible to all except members of the seminary, who are intrusted with pass-keys and can enter the library at any time from nine o'clock in the morning until ten o'clock at night. The rooms are warmed and lighted at university expense. Each student has a gas-jet above his own table and is absolutely independent of all his neighbors. Individuality is a marked feature of student-life and student-work in Germany. Men never room together; they rarely visit one another's apartments; and they almost always prefer to work alone. Society and relaxation they know how and where to find when they are at leisure. By general consent German

students attend to their own affairs without let or hindrance. This belongs to academic freedom. It belongs to the seminary and it belongs to the individual student.

M. Seignobos, in his excellent article on l'enseignement de l'histoire en Allemagne,[1] says "tout *seminaire historique d'État* possède sa bibliothèque propre et sa salle de travail réservées à l'usage de ses membres. Là, au contraire, tous les livres sans exception, restent à demeure, afin que l'étudiant soit toujours sûr de les trouver." M. Seignobos gives a list of some of the chief works that are to be found in the historical seminary library at Leipzig. He noted Pertz, Monumenta Germaniae; Jaffé, Regesta Pontificum; Jaffé, Bibliotheca rerum Germanicarum; Böhmer, Regesta imperatorum; Böhmer, Fontes rerum Germanicarum; Muratori, Scriptores; Bouquet, Historiens des Gaules; Wattenbach and Lorenz, Quellengeschichte; Forschungen zur deutschen Geschichte; Archiv der gesellschaft für deutsche geschichte; Historische Zeitschrift; Walter, Corpus juris Germanici; Zöpfl, Rechtsgeschichte; Waitz, Deutsche Verfassungsgeschichte; Gengler, Codex juris municipalis; Annales ecclesiastici; Migne, Vies des Papes; Giesebrecht, Geschichte der deutschen Kaiserzeit; Giesebrecht, Jahrbücher des deutschen Reiches; Scriptores rerum prussicarum; Huillard-Bréholles, Frédéric II; Hefele, Conciliengeschichte; Gregorovius, Geschichte det Stadt Rom; Collection Byzantine; Sickel, Monumenta graphica; Potthast, Bibliotheca medii ævi.

### The Statistical Seminary in Berlin.[2]

This government institution, while dealing with Prussian statistics, is also a regular seminary for the training of university graduates who have passed the examinations required for

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[1] Revue international de l'enseignement, June 15, 1881. "Bibliothèques."

[2] Authorities: Dr. Engel, Das Statistische Seminar des Königl. Preussischen Statischen Bureaus in Berlin, 1864. Programmes of courses.

entrance to the higher branches of the civil service. The seminary, which was first opened in November, 1862, was under the direction of Dr. Edward Engel, chief of the Bureau of Statistics, aided by various university professors. The idea was that the government offices of the statistical bureau should become laboratories of political science. Not only are the facilities of the department utilized for training purposes, but systematic courses of lectures are given to the statistical seminary by university professors co-operating with the chief and his assistants. Subjects like the following are treated: the theory and technique of statistics; agrarian questions; conditions and changes of population; political economy in its various branches; insurance; social questions; administration; prison discipline and prison reform in various countries; sanitary questions, physical geography, etc.

The amount of original work produced by the bureau and seminary of statistics is very great. One has only to examine the Verzeichniss der periodischen und anderen Schriften,[1] which are published by these government offices, in order to appreciate the scientific value of the scholar in politics. These publications are of international significance, by reasons of the lessons which they teach. Whoever wishes to study, from a comparative point of view, the subject of national or municipal finance; the relations of church and school; sanitation; insurance; trade and commerce; industries; population; land and climate; cities; development of the science of statistics; statistical congresses; markets; fairs; genealogies of royal families; tables of mortality; education; administration, etc., will be richly rewarded by consulting the published works of the Prussian Statistical Bureau, which can be obtained at catalogue prices.

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[1] For this catalogue, one should address the Verlag des Königlichen Statistischen Bureaus, Berlin, S. W., Lindenstrasse, 28.

### Library of the Statistical Seminary.

Among the publications of the Prussian Statistical Bureau is the catalogue of its library in two royal octavo volumes. In the first, the authors and titles are arranged according to the *sciences* which they represent. In the second, the contents are grouped by States. Probably there is in existence no other such complete guide to political science in its historical, theoretical, and practical aspects.

This library, now numbering over 70,000 volumes, has been used by Johns Hopkins University men, two of whom have belonged to Dr. Engel's *Seminar*, and they would fully endorse the published statement by Dr. Engel, in his account of the Statistical Seminary, made as long ago as 1864. He says: "If we may believe the admissions of many specialists, there exists far and wide no library so rich, no collection of periodicals so select, no map collection so excellent, as those in the royal bureau of statistics. All new contributions to this branch of literature, whether in Germany, France, England, Belgium, Holland, Sweden, Norway, Denmark, Russia, Italy, Spain, Portugal, North and South America, are brought to the eyes of members of this seminary. A series of more than seventy special magazines of political economy, statistics, and the allied branches of industry, agriculture, commerce and trade, public works, finance, credit, insurance, administration (municipal and national), social self help,—all this is not only accessible for seminary-use, but members are actually required to familiarize themselves with the contents of these magazines inasmuch as one of the practical exercises of the seminary consists in the preparation of a continuous report or written abstract of these journals."

### Historical Seminaries in Belgium.[1]

The first real university-seminary in Belgium was instituted by Professor Kurth, at Liège, in the year 1874–5. In 1874

[1] The authority upon this subject is M. Paul Frédéricq, Professor of modern history in the University of Liège, author of the admirable papers

M. Kurth had made a tour of observation in Germany, and, in 1876, published his impressions of the seminaries of Bonn, Leipzig, and Berlin in the *Revue de l'instruction publique en Belgique* (1876, Vol. xix.) under the title, *De l'enseignement de l'histoire en Allemagne*, quoted by Paul Frédéricq in his admirable account of the higher education in history as now pursued in Belgium. The seminary-work organized by Professor Kurth was more especially in the domain of mediæval history. The work was divided into two sections. The first was a preparatory course upon historical methods and the principles of historical criticism, with exercises in the use of the original sources for a chosen period of history, which was to be studied in detail the second year. The second section was this more advanced course wherein special questions were considered and theses produced. Among the original sources thus presented were those of Lorraine, of the Diocese of Liège, of the times of Charles the Great, and of the early Teutons. Among the special studies already published by members of this flourishing seminary are monographs upon Saint Gregory of Tours and classical studies in the sixth century; origin of the city of Liège; Norman invasions of the Diocese of Liège. It will be observed that most of these topics relate to the historical environment of the university where this scholarly work was produced.

Professor Paul Frédéricq has been the professorial colleague of M. Kurth and M. Émile de Laveleye at the university of Liège since 1880. The subject chosen by M. Frédéricq for the first year's work in a class of fourteen students was the Inquisition in the Netherlands. The seminary studied the ideas and legislation of the sixteenth century upon questions

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on the higher education in history, as taught in Germany and Paris, elsewhere cited. His article, *De l'enseignement supérieur de l'histoire en Belgique*, may be found in the introduction to the first published collection of original studies by his own seminary at Liège. *Travaux du cours pratique d'histoire nationale.* [Gand et La Haye, 1883.]

of heresy. Papal bulls and royal edicts, public documents and local archives, the pamphlets of the period, original memoirs, contemporary chronicles,—such were the sources of information sought by Professor Frédéricq and his diligent pupils. The second year they studied materials relating to Margaret of Parma, regent of the Netherlands. The mention of her original correspondence, edited by Gachard, will illustrate the original character of the authorities employed.

One of the results of this kind of seminary-work is an elaborate monograph upon Margaret of Parma by one of Professor Frédéricq's pupils, Guillaume Crutzen, now professor of history in the royal athenaeum of Chimay. Other results of this seminary course in modern history are a monograph on Les édits des Princes-Évêques de Liège en matière d'hérésie au XVI^e^ siècle, by Henri Lonchay, now professor of history in the athenaeum of Ghent; also a monograph on L'enseignement public des Calvinistes à Gand (1578–1584) by Professor Frédéricq himself. These three studies by members of the university of Liège, together with Professor Frédéricq's introductory article, *L'histoire aux universités Belges*, have lately (1883) been published in a volume of about two hundred pages, entitled, "Université de Liège. Travaux du cours pratique d'histoire nationale."

Here are the beginnings in Belgium of the same system of seminary-publication as that represented in Germany by the *Historische Studien*, published by an association of university professors, and the *Giessener Studien auf dem Gebiet der Geschichte*,[1] edited by Wilhelm Oncken. Here are suggestions for similar undertakings in America.

It is interesting to an American student to find a Belgian seminary at Liège traversing anew, and in its own way, the

[1] Similar publications of student-theses are the *Hallesche Abhandlungen zur neueren Geschichte* herausgegeben von G. Droysen (son of the Berlin professor bearing the same name) and *Die historischen Uebungen zu Göttingen*, once edited by George Waitz.

history of the Netherlands, where our own countryman, Motley, was such a bold and successful pioneer. The seminary of Liège is now studying the correspondence of Philip II., of William the Silent (both edited by Gachard,) and van Prinsterer's collection of the archives of the house of Orange-Nassau, etc., with a view to fresh studies in this old but attractive field.

### The Historical Seminary in Paris.

Perhaps the best authority upon this subject is Professor Frédéricq's recent article on *L'enseignement supérieur de l'histoire à Paris*, printed in the *Revue International de l'enseignement*, July 15, 1883. One of the most interesting facts of a general nature noted by M. Frédéricq was the great number and variety of historical courses offered in the higher institutions of Paris. In the faculty of belles-lettres at the Sorbonne, at the Collège de France, in the École des chartes, in the École normale, the École pratique des hautes études and the École libre des sciences politiques there were in all fifty historical courses. In the university of Berlin there were, at the time of comparison, only twenty-six courses; at Leipzig, twenty-one; at Bonn, fourteen.

M. Frédéricq describes in minute detail the historical methods in vogue at the various learned institutions of Paris. The entire article deserves reproduction in some English journal of education. It is hoped that M. Frédéricq's studies on the higher education in history as pursued in Germany, France, and Belgium may all appear in English translation at no distant day. In this brief review, attention is called simply to the École pratique des hautes études, and to the seminary work of M. Gabriel Monod. The École pratique was founded in the year 1868, while M. Victor Duruy was in the ministry of public instruction. His idea was to institute new methods of practical instruction in mathematics, physics, chemistry, natural history, physiology, philology, and the historical

sciences. The old method of instruction, especially in belles-lettres, had been of the lyceum-order—popular, entertaining, oratorical lectures for miscellaneous audiences. M. Duruy wished to substitute regular students for passing auditors, to create libraries and laboratories instead of supporting mere halls of learning. There was much discussion upon the subject of educational reform in France and the resultant literature[1] is very extensive. Some of it would, doubtless, be highly suggestive to college reformers in America.

M. Gabriel Monod was appointed to give practical instruction in history. He was a young Frenchman, who had studied at German universities, at Berlin under Koepke, and at Gœttingen under Waitz. M. Monod's practical work was begun in his own private apartment at Paris. After a time, the director of the École pratique, M. Renier, was able to obtain for this new school of history two little chambers in the fourth story of the right wing of the Sorbonne. These little rooms (*chambrettes basses, presque des mansards*) belonged to the library of the Sorbonne. They are now furnished with books from floor to ceiling. They have become genuine laboratories of historical science. M. Frédéricq describes how master and pupils are constantly rummaging through the alcoves of their library. Tables, supplied with writing materials, extend along the line of the book-cases. There is an atmosphere of quiet, serious work pervading the entire apartment. M. Frédéricq says the very narrowness of the quarters

[1] Statistique de l'enseignement supérieur, 1865 et seq.

L'Administration de l'instruction publique, Ministère de M. Duruy, Paris, 1870, pp. 932; Circulaires et instructions officielles relatives à l'instruction publique, Ministère de M. Duruy, pp. 716.

Karl Hillebrand, de le réforme de l'enseignement supérieur, Paris, 1868.

Gréard, l'enseignement supérieur à Paris, 1881.

Mélanges, publiés par la section historique de l'École pratique, 1878.

Monod, De le possibilité d'une reforme de l'enseignement supérieur, Paris, 1876.

Lavisse, L'Enseignement historique en Sorbonne et l'éducation national, Revue des Deux Mondes, Feb. 15, 1882.

has "quelque chose d'intime qui donne un charme tout particulier aux leçons. C'est un petit local adorable qui doit laisser un profond souvenir aux élèves. Il me semble que si l'École pratique le quittait un jour pour aller occuper des installations plus vastes et plus monumentales, elle y perdrait quelque chose de très précieux: son physionomie, son cachet."

Passing from the environment of M. Monod's seminary to the seminary itself, our Belgian observer finds it consisting of about a dozen men, devoted to original research in the field of early French history. He heard one member of the seminary giving the results of his own investigations into the family history of King Robert, son of Hugh Capet. The student had a great package of notes, made copious citations from old chronicles, and corrected the mistakes of his predecessors. M. Frédéricq says a member of the old school would have laughed at such scrupulous attention to the petty details of such a subject, but, as for himself, he was delighted to find, in the very citadel of ancient university traditions, in the old Sorbonne, such a conscientious zeal for painstaking, scientific work. During the lecture given by his pupil, "M. Monod s'effaçait autant que possible pour ne pas entraver l'initiative de l'élève, écoutant avec une attention extrême, la tête penchée, deux doigts de la main gauche pressés sur la bouche, ou rajustant son pince-nez avant de placer çà et là une brève rectification. À la fin de la leçon il prit chaque fois la parole pour résumer le débat en mettant les points sur les *i* et indiquer nettement les résultats solides et les questions restées obscures. Ici encore j'ai admiré la sagacité et le tact de cet excellent professeur."

The École pratique and the seminary of M. Monod have had a powerful influence upon the educational reconstruction of the higher institutions of Paris. One can no longer find such purely oratorical courses as flourished in former days for popular audiences. Professors in the Sorbonne now address their regular pupils, for whom are reserved the foremost places in those ancient lecture-halls. The École pratique has

grown from small beginnings into a vast seminary of the arts and sciences with twenty-five professors and fifty courses of lectures. Since 1869 the school has had its own organ for collective publication, the so-called *Bibliothèque de l'École pratique des hautes études*, wherein have appeared some of the best special works in history by Messieurs Monod, Fagniez, Giry, and many others. In 1875, M. Monod established the *Revue Historique* and lately he has been one of the most active spirits in founding at Paris the *Société Historique* or the so-called *Cercle Saint Simon*, wherein are associated, upon a club basis (somewhat like the Athenaeum in London), many of the brightest men in Paris. The *Cercle* includes also certain non-resident members, gentlemen living in other parts of France or Europe, who are assured of good fellowship when they visit the club-rooms of the Société Historique, of which M. Monod is now the President.

### Seminaries and Lectures at Harvard College.

One of the earliest and most successful applications of the seminary-method in this country was in the department of history at Harvard college, in the advanced classes of Professor Henry Adams.[1] It was at a time when the writings of Sir Henry Maine were first making their way into the minds of American students. Through Sir Henry Maine and Professor William Stubbs the current of German influence, from Von Maurer and George Waitz, came to England and America. It is gratifying to the American spirit of independence that this German current found so quickly in our country new channels of inquiry. Professor Adams began, indeed, his seminary-work with a critical review of the writings of Sir Henry Maine. The members of his class took each a chapter

[1] It is an interesting fact that the first university lectures after the German model that were ever given in this country were those delivered at Harvard college, 1806–8, upon rhetoric and oratory, by John Quincy Adams, the grandfather of Henry Adams, who is the son of Charles Francis Adams.

and studied it in the light of other evidence. Each man reported to the class upon the results of his critical study and was sharply opposed at every doubtful point by the professor, whose real views upon the subject were never avowed until the close of the exercise. So profitable was this kind of training and disputation that one young man has since developed into a radical opponent of the views of Sir Henry Maine and of Von Maurer himself, as regards the early history of institutions, particularly of village communities and of land-holding among the ancient Germans.[1]

Another independent result of the Harvard Seminary was a series of published essays upon Anglo-Saxon law. The professor himself investigated the subject of Anglo-Saxon law-courts. Mr. Henry Cabot Lodge inquired into Anglo-Saxon land-law. Mr. Ernest Young studied Anglo-Saxon family-law; and Mr. J. Laurence Laughlin, Anglo-Saxon legal procedure. These seminary-studies were published together in a volume entitled Essays in Anglo-Saxon Law (Boston: Little, Brown & Co., 1876). They were afterwards republished in England (London: Macmillan & Co.) and have everywhere met with cordial recognition by critical scholars in the old world as well as in the new. This published work has given a decided impulse to historical studies and joint publications elsewhere.

It is a suggestive commentary upon the practical bearing of this seminary-work at Harvard College that all three of the

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[1] Denman W. Ross, Ph. D. (Harvard): The Early History of Land-Holding among the Germans, (Boston: Soule and Bugbee, 1883); Studies in the Early History of Institutions, I–IV, Cambridge, Mass., Charles W. Sever, 1880–1. I–III. Theory of Village Communities; IV. Theory of Primitive Democracy in the Alps; The Theory of Primitive Communism.

The book on Land-Holding and the various studies support the ideas that land community was not a primitive institution; that, on the contrary, individual land-holding is the historic basis of landed property, even in its communal forms; and that the Teutonic village communities were always communities of serfs or tenants holding their lands from some lord. The book has been favorably reviewed in *The Spectator*, January 5, 1884; unfavorably in the *Saturday Review*, January 19, 1884.

graduate students who were engaged with Professor Henry Adams in the preparation of this book on Anglo-Saxon Law were afterwards engaged as instructors in that institution and continued there the methods they had learned so well. Dr. Lodge instituted co-operative student-lectures in American colonial history, and he himself has since published an excellent Short History of the English Colonies in America, the Life of George Cabot, a Life of Alexander Hamilton, and a Life of Daniel Webster (the last two in the series called American Statesmen). But for Dr. Lodge the lessons of past history have now been transformed into present politics in Massachusetts. His former associates, however, continue in their academic career. Both are now assistant professors in Harvard University. During the past year, Dr. Young has conducted original courses in Roman Law (for one graduate, ten seniors, eleven juniors, and two sophomores), and in the Constitutional and Legal History of England (for two graduates, thirteen seniors, and fourteen juniors). This course best represents the continuity of work in institutional history originally begun by Professor Henry Adams. Dr. Laughlin has pursued, with his class, independent studies of the economic effects of land tenures in England, Ireland, and France (the class consisting of one graduate and six seniors). From classes much larger in size he has also required theses upon practical economic questions pertaining to this country, *e. g.* Bimetallism, Reciprocity with Canada, National Bank Issues, American competition, etc. Dr. Taussig,[1] who has been associated with Professor Laughlin in teaching political economy, produced original studies on the history of tariff legislation in the United States, which gained him the Topham prize and the degree of Ph. D. in 1883. His thesis was entitled

[1] Dr. Taussig's studies were brought out in a special course of lectures before the students of the college and were afterwards published by Moses King, of Cambridge, Mass. A second edition will appear from the press of G. P. Putnam's Sons, New York.

"Protection to Young Industries as applied in the United States."

The success attending the new courses in political economy at Harvard College last year was most remarkable. The attendance in one full course (three hours a week) was as high as 155 (including 1 graduate, 22 seniors, 113 juniors, 13 sophomores, 3 specials, 2 law students, and 1 scientific). Any observer of student opinion as revealed last year in Harvard College papers could see that political economy was in very great demand. This was doubtless in great measure the result of public opinion which now favors economic studies; but it was also the fruit of the life-work of Professor Dunbar and of those other Professors, Torrey, Gurney, and Adams, who trained these younger men in historical and political science. Professor Dunbar, the head of the department of political economy, has now returned from Europe with newly developed and highly suggestive courses: (1) A comparison of the financial systems of France, England, Germany, and the United States; (2) the economic history of Europe and America since the seven years' war.

Another line of seminary work at Harvard is more especially on church and state in the Middle Ages. Dr. Emerton, now professor of ecclesiastical history, was trained in methods of special work not only at Harvard College, but also at Berlin university, in the seminary of Droysen. Dr. Emerton has conducted various seminary courses at Harvard for graduate and undergraduate students, but his work has dealt chiefly with topics of European history, from the time of Charles the Great to the end of the thirteenth century. His students have investigated the relations between the Papacy and the German Empire, the origin of mediæval institutions, the rise of French Communes, etc. He introduced the seminary-method into the so-called "Harvard Annex," a Cambridge institution for the promotion of the higher education of women. One of his pupils, a graduate of Smith College, Northampton, prepared, under his direction, an elaborate

thesis in German constitutional history, on the origin of the electoral college, for which the degree of doctor of philosophy was afterwards given her at Northampton in 1881. During the past year Professor Emerton has conducted a seminary for the study and use of historical sources relating to church and state in the eleventh century. The seminary included one graduate and four seniors. Each member prepared five theses, embodying original investigations.

Dr. Emerton has lately contributed to the Pedagogical Library a chapter on "The Historical Seminary in American Teaching," which is an able exposition of the seminary idea. I shall quote from it at considerable length: "History has been taught very badly in America, or rather, to be honest, it has rarely been taught at all. In the great development of educational methods since the war, it has been one of the departments most slowly and imperfectly recognized as worthy a place of its own. Even now independent chairs of history exist in but very few American colleges, and the proportion of time given to its study is absurdly inadequate. No serious knowledge of history is required for entrance into our colleges, so that a considerable part of whatever teaching they may offer must needs be elementary. Our subject stands, therefore, in need of fair representation. It must be placed before the country in such a light as shall clearly show it to be worth all the care that can be bestowed upon it. It must be made clear that the claim of history to rank among the sciences is founded in fact—the fact that it has a scientific method. To illustrate and enforce this truth is the mission of the historical "Seminar" in America.

"Let us consider some of the conditions of its success. 1. It must consist of picked men. This is not a method adapted to every student. The recitation in elementary, and the lecture in advanced, teaching must still remain as the chief means of reaching great masses of students. The members of the practice-course, as I prefer to call it, must be men of exceptionally good preparation for this work, usually equipped with some

considerable general knowledge of history, but especially strong in foreign languages, in order that all possible tools may be available for their use. 2. Its numbers must be small, no more, at least, than can be comfortably seated about a table, so that the relation of pupil and teacher shall be as informal as may be. The students must be in every way encouraged to feel that they are alone responsible for the success of their work, that they are investigators whose results may find a place in the world's record of learning, as well as those of any other men. The teacher must here cease to lay down for their acceptance the products of his own labor; he must become their guide only, enforcing always the lesson that their work alone can bring them substantial rewards. Thus, teacher and students become a working body together, with a definite purpose, with well understood ways of work, and with a common enthusiasm. 3. The subject selected for treatment must be one which lends itself readily to the purpose of the practice-course, one in which, above all else, the material is accessible in a convenient shape for handling. . . .

"Quite apart from all considerations of gain to the student is the relief and advantage which a class of this kind brings to the instructor. This is manly work. He feels himself here no longer the pedagogue laying down the law, but an overseer guiding the action of intelligent workers. It is not for him to inform them, but for them to inform him, while it is his part to see to it that they apply their powers in such a way as to insure the value of their results. There is a tendency among some educators to depreciate the value of original work by young scholars. They say it must needs be crude, and therefore useless. A wiser view is, that only through these first attempts at original effort can a man hope to make the most effective use of his powers when they shall have become mature. The evil with us is not that our boys begin to create too early, but too late. If every student, from the first moment that he learns anything, were compelled to reproduce it in proper shape, he would find himself in college

vastly better equipped for the actual grappling with new truth than he now is.

"The principal of study I am here advocating is no longer on trial as an experiment in America. It has come to stay. I am not going too far, I think, in calling it the foundation of the Johns Hopkins University system, and the main source of the wonderful creative vigor already developed by that young institution. Other colleges are following. In all, perhaps, a half dozen can show some form of this practical instruction in moral science. And the development must go on. Libraries must become the laboratories in these sciences in which the head plays the most important part. The library must cease to be the store-house for books and become the working-place where the historian, the philosopher, and the philologist of the future are to get their most effectual training."

### Seminary Work in Harvard College Library.

The conversion of a library into a laboratory of science is well illustrated at Harvard College, where, through admirable management by the librarian, Professor Justin Winsor, the custom has long prevailed of bringing the materials needed for a specific line of class-work to the notice of students in alcove-reservations, "to which the students have unrestricted access."[1] Books are treated as specimens, to be examined, tested, analyzed by the class of students for whose

[1] See Justin Winsor's report on the Library of Harvard College. Annual Reports, 1882–3. It appears from Mr. Winsor's report that the practice of giving students temporary admission to the shelves is a growing tendency at Harvard College. The number of times that cards of admission are actually used would seem to be a fair test of the extent to which the library was becoming a work-shop. In 1879–80, the number was 340; in 1880–1, it was 870; in 1881–2, it was 2,542; last year it was 3,340,—a total increase in four years of 3,000 cases of *original research*. It appears that during the past year 167 students have used admission cards—46 were students of history, 5 of Political Economy.

benefit they are set forth. Usually the instructor's name is placed upon that collection of authorities which he has selected for the use of his class. Reserved books can be taken out over night. While conflicts of interest sometimes occur between instructors or students who need the same books, yet these matters are generally settled by principles of comity or by the greatest good of the greatest number. The point is to secure the greatest efficiency of the college library as a laboratory for student-work. Professors Greenough, Emerton, and others have gained this point by having seminary classes meet in one of the small rooms of the library building—an idea which was afterwards carried out by the Baltimore historical seminary, which met for a time in one of the small lecture-halls of the Peabody Institute.

### Seminary Work in the University of Michigan.

The development and present character of seminary work in history at the University of Michigan are described as follows by Professor Charles Kendall Adams, Dean of the School of Political Science:

"I hardly suppose there are any peculiarities in our methods of instruction before coming to the seminary work that I need to describe. In the paper I contributed to Dr. Hall's volume[1] I gave some hints that will enable you to judge as to what we do. But a few words in regard to the seminary work may not be unwelcome.

"This, of course, had to be evolved out of the old collegiate curriculum. When I took hold of my work here, in full charge of the Department of History, in 1868, it occurred to me that something might be done to awaken further interest by introducing the German seminary methods. I had observed the work done in the seminaries in Berlin, Leipzig, and Bonn,

[1] Pedagogical Library, edited by G. Stanley Hall, Vol. I., Methods of Teaching History, pp. 171–181.

and was convinced that better work could be done than, up to that time, had here been attempted. Accordingly, the next year, in 1869, I got together a group of seniors, especially interested in historical studies, to see what I could do with them. The students were, of course, ill-prepared for anything that could properly be called original work; and the resources of the library were quite inadequate. But we did the best we could, and the results on the whole were so satisfactory that I was encouraged to develop the system as time and opportunity seemed to suggest. It was not for some years after the time of which I am speaking, that the course of study was made elective after the first year. As soon as the elective system came to be general, I was able to provide such preliminary work as I had strength to carry on. In course of time an Assistant Professor was furnished, and we have, in consequence, been able to add several courses not before given.

"Up to within the last year the resources of our library have not been such as to encourage us in going into an investigation of difficult and obscure questions. Nor, indeed, has that class of questions been the one I have supposed to be most useful to our students. Nearly all of them are undergraduates, and a majority of them are to be lawyers. I have thought, therefore, that their minds required a different class of questions from such as would be most profitable, perhaps, to a group of specialists intending to make the teaching of history a profession. In the first semester I gave the students a set of questions on English history; in the second, on American. The questions were, in the main, those in the last pages of my "Manual." The class taking the work varied in size from twenty to fifty. Of late, I have made the conditions of admittance more stringent and the number does not often go above twenty-five. I have tried three different ways of conducting the exercise. In all cases the subjects for special investigation have been assigned at the beginning of the year. In about six weeks we have the first paper—usually from half an hour to an hour in length. Then I have some

years had a critique on this paper, prepared by one of the members of the class into whose hands it had been put a week before it was to be read. I should have said that the class is always divided into groups of not more, in any case, than fifteen members, and usually not more than ten. After the critique, each member is called upon to present the results of the studies on the question before us for that day. In this way the two hours of the session are taken up. I, of course, make such observations, comments and criticisms as appear to be called for. In this way, every member of the class prepares a paper and reads a critique every semester, and is expected to present the results of some study in addition on each of the other questions.

"Another way I have tried is to divide the questions into several parts and have each student devote a week to some particular phase of an individual question. This results in better work, but at the conclusion the knowledge of the students is more fragmentary and less satisfactory. Another method has been to have each student report at each meeting the result of his own studies on his own particular question. This I have found to be the most satisfactory, if the questions are properly chosen. In such a course, the meeting would not be devoted to a single question as is usual in Germany, but to as many as happened to be in course of investigation.

"This latter is the course I pursued last year in my 'Political Seminary.' The class consists of a group of six, four of them candidates for higher degrees. Our studies were very largely of municipal institutions in different times and different countries, but not exclusively so. The results were very satisfactory indeed, so far as can be judged by the interest awakened in the students. I have been making efforts to get as large a collection as practicable of municipal documents, and I have put the students into these for the study of such of our own cities as have favored me with their reports.

"The most conspicuous success last year was a paper on the 'History of the Appointing Power of the President.' It is

well worthy of publication and I think would be regarded as a genuine contribution to current knowledge. It covers some three hundred pages of MS., and is very carefully sustained by notes and citations of authorities. Another paper of excellence was on 'History of the Land Grants for Higher Education in the Northwest.' The author of this paper, a candidate for Ph. D., is now in Columbus, O., looking at the State Records of that State. He has already visited Lansing, Madison, and Chicago, and after 'doing' Ohio is to go to Indianapolis. His final thesis is to be on 'The Land Grants for Education in the Northwest,'—more properly in that portion of the Northwest which is made up of the old Northwestern Territory. He has undertaken to trace the management in each State of all the land grants for education. I think he is doing the work thoroughly. So far as he has gone, he tells me he has examined all the General Laws and Specific Acts in the States under investigation. I think he will not only bring together a large amount of new information, but will make very clear some mistakes that have been made. Another member devoted his time to a study of the financial history of Chicago; another to a comparison of the governments of St. Louis, Chicago, Buffalo, and Boston. I have also been getting together the means for a similar study of cities of the old world. I hope to push investigations in the history of education in the Northwest. The management of elementary or common schools, the growth of the high school, legislative interference with colleges and universities are all subjects which might be profitably investigated."

### The Historical Seminary in Baltimore.

In 1876 the Johns Hopkins University was opened in Baltimore for the promotion of science and of college education. There was no intention of establishing in this country a German university, or of slavishly following foreign methods. The institution was to be pre-eminently American, but it did

not hesitate to adapt the best results of European experience, to American educational wants. The system of fellowships, which secured at once a company of advanced students for scientific work, was, from the very outset, radically different from that of England, or from the German system of *Privat-docenten.* It was a peculiarly American system for the encouragement of original research. The historical seminary, which was instituted as soon as university-life in Baltimore began, was founded upon a purely American basis, and devoted itself strictly to American history. The director of this seminary, Dr. Austin Scott, was then associated with Mr. George Bancroft in Washington in preparing materials for the history of the formative period of the American constitution, upon which Mr. Bancroft was then engaged. Dr. Scott, who spent most of his time in original research in the library of the state department and with Mr. Bancroft in his own study, came to Baltimore once a week to conduct a session of the historical seminary, which met Saturday mornings.

The same course of constitutional studies, which Mr. Bancroft and Dr. Scott had pursued together, was now reviewed by six or eight university students under Dr. Scott's instructive guidance. The seminary had the feeling that they had been admitted to Mr. Bancroft's workshop and that, by the examination of his materials and his methods, they were being taught the art of constructing history. The very manuscripts which Dr. Scott had prepared, while collecting and sifting facts for Mr. Bancroft, were shown to the seminary. Questions still unsolved were submitted to Johns Hopkins students for their consideration in company with their instructor. Books from Mr. Bancroft's private library supplemented the resources of Baltimore. Original papers were prepared by various members of the seminary, and written words of encouragement for work like this, came from the historian himself. The feeling was thus engendered that, in some slight ways, the seminary was contributing to the great volume of United States History. Between such creative methods of historical

study and the old passive methods of reliance upon standard authorities and text-books, there was felt to be a vast difference. And yet the new methods were very simple. Instead of each man buying an expensive work of constitutional history, a set of the journals of the old congress, the Madison papers, Elliot's debates, the writings of Washington, Jefferson, Hamilton, and a few other sources of information contemporary with the formation of the constitution, were brought together upon a long table in the library of the Maryland historical society, where seminary sessions were held, and where special facilities were afforded for original research. Around this common board gathered the seminary which was composed originally of six or eight men, four of them "fellows" of the university. The director sat at the head of the board, and usually gave a short lecture, or informal "talk," introductory to the discussion of specific topics which had been assigned for research during the previous week. Reports were made; papers were read; and general interest was awakened in special questions touching the origin and growth of the American constitution. The relation of the states at the close of the revolutionary war, economic questions, commercial problems, the western lands, the influence of the army, the question of revenue, the efforts of statesmen, the origin and history of the great conventions, the constitutional platforms proposed, the course and results of debate, the adoption of the constitution by the various States, the administration of Washington, the rise of parties, all of these questions and many more were studied in detail by members of the historical seminary.

Dr. Scott's weekly seminary was continued, at convenient intervals, during a period of five years. The best results of this period of study were presented to the university by Dr. Scott in the form of ten public lectures, delivered in January, 1882, upon the development of the American constitution, under the special topics of nationalism and local self-government; the federative principle; self-assertion of the national

idea; reaction; transition; power of the masses; economic questions; socialism; revolution. Various original papers were prepared in connection with this seminary, and a few have found their way into print. A monograph, by the editor of this series, upon "Maryland's Influence in founding a National Commonwealth," with two minor papers upon "Washington's Land Speculations" and "Washington's Influence in opening a Channel of Trade between the East and West," was published in 1877 by the Maryland Historical Society (Fund Publication, No. XI.) An article by W. T. Brantly, of the Baltimore Bar, upon "The Influence of European Speculation in the Formation of the Federal Constitution," was published in the Southern Law Review (St. Louis) August and September, 1880. In 1881 Mr. Bancroft's great work was published in two large volumes, and seminary work in this attractive field was brought to a close. But attention was now being directed towards the field of American local institutions, the earliest germs of our colonial, state, and national life.

But before considering this new phase of the historical seminary in Baltimore, it is fitting to say a word concerning the seminary of constitutional Law, instituted by Judge T. M. Cooley, during his lectureship in Baltimore, 1877–9, at the request of members of Dr. Scott's historical seminary. This other seminary was conducted for the special purpose of expounding the text of the constitution of the United States and of comparing its provisions with the unwritten constitution of England. These exercises, which occurred once a week, consisted chiefly of comment by Judge Cooley, with questions and discussion by the class. Each member had a copy of Paschal's Annotated Constitution and of Baldwin's text, with references to constitutional decisions. The exercises were made especially profitable to students of history in consequence of the legal turn given to the discussions of the seminary by its lawyer-members and by Judge Cooley. Decisions of the supreme court, modifying or interpreting the text of

the constitution, were frequently cited, and the conception of our constitutional law as an organic growth instead of a machine, was thereby strengthened and deepened.

In the autumn of 1880, had already begun a new departure in historical instruction at the Johns Hopkins University in the introduction of American institutional history as a distinct branch of historical study. The idea was the outgrowth of a special interest in municipal history, first quickened in a seminary at Heidelberg, thence transplanted to Baltimore, where it was fostered by the reading of the writings of Sir Henry Maine, in connection with those of Carl Hegel, Maurer, Nasse, Waitz, Stubbs, and of the Harvard school of Anglo-Saxon law. The continuity of the Germanic village community in New England had been originally suggested to Sir Henry Maine by an article in *The Nation*, communicated by Professor W. F. Allen, of the University of Wisconsin. It was determined as early as 1877, after consultation with Professor Henry Adams, then and now living in Washington, to apply this principle of continuity to the town institutions of New England. Spring sojourns for four terms, beginning in 1878, at Smith College, Northampton, Massachusetts, and summer vacations spent in old towns along the New England coast made it possible to attempt this study, the first fruit of which was presented in 1880 to a mixed class of graduate and undergraduate students at the Johns Hopkins University, in a course of lectures, one hour a week, for one semester, upon the History of Plymouth Plantations, a course based upon an original study of the colonial and town records of Plymouth. The only work required of the class in this connection was an examination upon Sir Henry Maine's lectures on "Village Communities in the East and West." The next year, 1881, a similar course was given to advanced students only, upon "Salem Plantations," based upon vacation studies in Massachusetts.

By this time, kindred researches in the colonial and local records of other states were in progress among college grad-

uates from various parts of the Union. A student from South Carolina was investigating the parish system of his native state. Maryland men were studying Maryland institutions. But, while advantage was thus taken of local environments, even of summer residence, these were not the only considerations which governed the allotment of territory. A New England man was encouraged to investigate the origin and development of the municipal government of New York City. Another graduate from the northeast section of the Union began to study the local government of Michigan and the Northwest, and the results of his work were read at the general meeting of the American Social Science Association in 1882, and afterwards published in their proceedings for that year. The article was republished in the Johns Hopkins University Studies in Historical and Political Science, first series, number 5.

It was a part of the new seminary plan to have its studies published in the proceedings of learned societies, in historical magazines, and in other ways suited to the propaganda of American institutional history. Especially was it desired to obtain local recognition for local work. A paper on local government in Pennsylvania was read before the Pennsylvania historical society and published in the Pennsylvania magazine of history and biography. It was also intended that these local publications should ultimately be brought together again in a regular university series. The American Antiquarian Society, the New England Historic, Genealogical Society, the Essex Institute, the secretary of the American Social Science Association, and editors of magazines kindly co-operated in furthering this aim of the seminary; and the trustees of the Johns Hopkins University, in the autumn of 1882, enabled the project to be carried out in the shape of a monthly periodical devoted to "Studies in Historical and Political Science," the first volume of which is now complete.

The new historical seminary of graduate students began its Saturday mid-day sessions in the autumn of 1881, in a small lecture-room of the Peabody Institute, which contains a library

most admirably equipped for special research and numbering about 80,000 volumes. Here, around a long table, half a dozen advanced students met together twice a week, once for a study of the sources of early European history with special reference to Germanic peoples, and once for lectures and original papers on the local institutions of the United States. All the sources of information, used or mentioned by members of the seminary, were exhibited upon the long table, and were passed around for purposes of illustration. The advantage of seeing and handling the books mentioned in a lecture or bibliography, is very great, compared with the simple transcription of catalogue-titles into a note-book,—a method prevailing in German lecture-courses. The Baltimore seminaries are laboratories where books are treated like mineralogical specimens, passed about from hand to hand, examined, and tested.

In the spring semester of 1882, the institutional section of the historical seminary began to hold Friday evening sessions, of two hours each, for the convenience of certain young lawyers, graduates of the university, who desired to participate in the institutional work. Meantime the library resources of the Johns Hopkins for the furtherance of such study had been increasing. It was thought expedient to fit up a special library-room for the accommodation of the seminary, which had now increased to eighteen members. A seminary altar in the shape of another long table was accordingly erected, and book-shelves were built around the room, within easy reach. Here the peripatetic school of American history assembled anew and held weekly sessions until the close of the spring semester of 1883, continuing, however, its weekly meetings at the Peabody Institute for the study of the sources of English history. The historical seminary early associated with itself the graduate students in political economy and certain professors and advanced students of history and politics in other colleges. In this associate capacity the seminary is known as the Historical and Political Science Association.

No better idea of the nature of the subjects discussed by it last year can be given than those reported in a number of the

Johns Hopkins University Circular, August, 1883, among the proceedings of societies, from April 6 to May 30, 1883: topical instruction in history, by Professor William F. Allen, of the University of Wisconsin; letters from a university-student in Germany, on German methods of writing and teaching history; the limits of co-operation, by E. R. L. Gould, fellow of history; historical remarks on Talbot county and the Eastern Shore of Maryland, by Dr. Samuel A. Harrison, of Easton, Maryland; customs of land tenure among the boys of McDonogh institute, Baltimore county, by John Johnson, A. B., [a very remarkable paper, illustrating not only the advantage of studying local environments but socialism in miniature]: socialistic and co-operative features of Mormonism, by the Rev. G. D. B. Miller, of St. Mark's School, Salt Lake City; Machiavelli, by Edgar Goodman, A. B.; the influence of John Locke upon political philosophy, by B. J. Ramage, A. B.; the office of public prosecutor, by F. J. Goodnow, A. B., professor (elect) of administrative law in Columbia College; the income tax in the United States, by H. W. Caldwell, A. B., instructor (elect) of history in the University of Nebraska; Hugo Grotius, the founder of modern international law, by Arthur Yager, A. B., professor (elect) of historical and political science, Georgetown College, Ky.; review notices of the 300th anniversary of the birth of Grotius, by Dr. J. F. Jameson, associate in history, J. H. U.; America as a field for church history, by Dr. Philip Schaff, of the Union Theological Seminary; taxation in Maryland, by C. M. Armstrong, of the Baltimore Bar; review of certain results of the U. S. census of 1880, by John C. Rose, lecturer (elect) in the University of Maryland [Law School]; the revised tariff in its relation to the economic history of the United States, by Talcott Williams, A. B., of the editorial staff of the Philadelphia *Press*. Abstracts of some of these papers or communications were published in the University Circular, for August, 1883, and two or three of the articles will probably be printed in the University Studies. The article last named,

on the tariff, will be published by the Society for Political Education.

Occasionally specialists from other colleges or distinguished strangers, who are visiting the city, are present by invitation. Among other guests during the past year, President White of Cornell University has addressed the seminary. It is of no slight interest for young men to have among them, now and then, some veteran in the field of history or politics, who by his pithy sayings and friendly suggestions can sometimes do more in a half hour for the development of the seminary than would days of passive reading. The older members of the seminary can never forget the deep impressions made upon students of history in Baltimore by the late Professor J. L. Diman, of Brown University, who, during his lectureship at the Johns Hopkins University, addressed the Association of Historical and Political Science. The youngest members still speak with pleasure of Mr. Edward A. Freeman, who, by special invitation, gave the University students of history six extempore "talks" upon the geography and history of south-eastern Europe, whence he had recently come. Nor will some of these students ever forget the enthusiasm with which Mr. Freeman entered into the rooms for special research in the university library to examine the ancient laws of Maryland and to talk of English institutions with the students who were there at work. Among other interesting addresses, given especially for the benefit of the Seminary, was that by James Bryce, M. P., Regius professor of civil law in the University of Oxford, on "The Relation of Law to History." Mr. Bryce gave a general course to students of the University on "English Problems," but the special lecture was by request of the students of history. (For a brief abstract of his remarks as reported by the secretary of the Historical and Political Science Association, see University Circular, February, 1882). Recently, November 23, 1883, Mr. Bryce addressed the seminary upon the subject of De Tocqueville's Democracy in America, suggesting certain points of criticism and original

research (see University Circular, January, 1884). Dr. H. von Holst, of the University of Freiburg in Baden, has also addressed the seminary at a recent date, October 12, 1883, (see University Circular, January, 1884,) upon the study of slavery as an institution, with suggestions as to the possibilities of the southern field of research for students at the Johns Hopkins University.

With the opening of the present academic year, 1883–4, the seminary of historical and political science took up its abode in new and more spacious rooms than those hitherto occupied. The seminary is now established in the third story of the building devoted to the main university library, of which the seminary books form a subordinate section. As you enter the seminary-library, which occupies a room fifty-one by twenty-nine feet, the most noticeable object is the long library-table around which students are seated, every man in his own place, with his own drawer for writing materials. Upon the walls above the table are portraits of men who have influenced the development of the Baltimore seminary—G. H. Pertz, Bluntschli, Freeman, Bryce, Von Holst, Cooley, Diman. Busts of Jared Sparks, Francis Lieber and other distinguished representatives of history and politics give to mere aggregations of books the presence of personality. The library is arranged in alcoves around the seminary-table with primary regard to the convenience of students, who help themselves to books without any formality. American history (state and national) occupies the most honored place. International law, politics, administration, economics and social science, history (European, ecclesiastical, classical, oriental), archæology, and law (Roman, German, French, and English), have each their proper place. Within the alcoves are tables for special work, which places are assigned to advanced students holding the honors of the department. These tables are somewhat secluded from the general view by revolving book-cases, wherein books in current use are placed, as we say, "on reservation." The newspapers taken by the department are dis-

tributed in the various alcoves of politics, economics, law, history, etc. Religious journals are to be found upon the ecclesiastical table.

The current magazines of historical and political science, together with new books and university publications, are kept upon the long seminary-table, which represents the centre of scientific life for those who gather about it. The latest and freshest contributions are here displayed; and when the new becomes old, it is swept away into the alcoves, to side-tables where it still remains for some weeks on exhibition until it is finally classified in pigeon-holes, pamphlet-files, or bound volumes. The back numbers of all special magazines like the Revue Historique, Historische Zeitschrift, Preussische Jahrbücher, Tübinger Zeitschrift, Conrad's Jahrbücher, Revue de Droit International, taken by the department are kept for consultation in a room specially devoted to that purpose. In addition to these rooms there are separate offices for the various instructors, two lecture-rooms, a newspaper bureau, a geographical and statistical bureau, and the beginning of an historical museum,—some of which features of the seminary will be described in another connection.

## Seminary Life.

It is easy thus to outline a few external characteristics of the seminary, but difficult to picture its inner life. Its workings are so complex and varied, that it cannot be confined within walls or restricted to a single library. Its members are to be found, now in its own rooms, now at the Peabody Institute, or again in the library of the Maryland Historical Society. Sometimes its delegates may be seen in the libraries of Philadelphia, or in the Library of Congress, or in some parish registry of South Carolina, or in some town clerk's office in New England. One summer the president of the university found a Johns Hopkins student in Quebec studying French parishes and Canadian feudalism. The next

summer, this same student, at present a fellow of history, was visiting Iona and tramping through the parishes of England. He called by the wayside upon the English historian, Mr. Freeman, at his home in Somerset. Once the seminary sent a deputy in winter to a distant village community upon the extreme eastern point of Long Island, East Hampton, where he studied the history of the common lands at Montauk, with the queen of the Montauk Indians for his sovereign protectress and chief cook. Half a dozen members of the seminary have gone off together upon an archaeological excursion, for example, to an old Maryland parish, like St. John's, where lies the ruined town of Joppa,[1] the original seat of Baltimore county; or again, to North Point, the scene of an old battle ground and the first site of St. Paul's, the original parish church of Baltimore; and still again, to Annapolis, where, with a steam launch belonging to the Naval Academy, and under the guidance of a local antiquary, they visited Greenberry's Point, upon the river Severn, the site of that ancient Puritan commonwealth which migrated from Virginia and was originally called Providence, from which sprang the Puritan capital of Maryland. Reports of these archaeological excursions, written by members of the seminary connected with the Baltimore press, found their way into the public prints and were read by many people in town and country, who thus became more deeply interested in the history of Maryland.

The scientific sessions of the Seminary, two hours each week, are probably the least of its work, for every member is engaged upon some branch of special research, which occupies a vast amount of time. Researches are prosecuted upon the economic principles of division of labor and co-operation. This co-operation appears not merely in the inter-dependence of student-monographs, but in every day student-life. A

[1] With the return of spring, the Seminary will return to the vicinity of Joppa for the sake of exploiting fifteen Indian graves which are to be opened in the interest of science by the present proprietor.

word is passed here, a hint is given there; a new fact or reference, casually discovered by one man, is communicated to another to whom it is of more special interest; a valuable book, found in some Baltimore library or antiquarian bookstore, is recommended, or purchased for a friend. These things, however, are only indications of that kindly spirit of co-operation which flows steadily on beneath the surface of student-life. It is interesting to observe this spirit of friendly reciprocity even among rivals for university honors, that is, for fellowships and scholarships. Individual ambition is undoubtedly a strong motive in student-work, but there is such a thing among students everywhere as ambition for others, call it class spirit, *esprit de corps*, good fellowship, or good will to men. The Baltimore seminary is individually ambitious, but it hails with delight the rise of similar associations elsewhere, at Harvard University, at the University of Pennsylvania (Wharton School), Cornell University, University of Michigan, University of Wisconsin, University of Nebraska, and University of California. All these seminaries are individually ambitious, but it is ambition for the common cause of science. They are all pushing forward their lines of research, but all are co-operating for the advancement of American History.

## The Seminary Library.

The library of the seminary of historical and political science began in the collection of colonial records, state laws, and American archives for the encouragement of students in American institutional history. The collection was at first increased from the main library of the university, which transferred all *special* works relating to this department; then, gradual purchases were made of institutional and economic material from England and Germany, in the special interest of the seminary. In December, 1882, the private library of the late Dr. John Caspar Bluntschli, of Heidelberg, was incorporated into that of the seminary, after presentation to the

University by the German citizens of Baltimore. The Bluntschli library, containing nearly three thousand volumes, with about four thousand pamphlets, represents the scientific collections of a broad-minded specialist in historical and political science, whose horizon of interest widened gradually from the pent-up limits of a Swiss canton to modern European states and to the law of nations. Bluntschli's professional position at Munich as historian of political science and as editor of the German political dictionary, his life as professor and practical politician at Heidelberg, his presidency of the *Institut de Droit International*, brought him into scientific association with specialists, not only in Germany, but in Holland, Belgium, France, Italy, Austria, Russia, and England; consequently, his library is especially rich in books, which came to him from distinguished writers in all these countries. Upon the basis of this European collection, representing the laws and history of the old world, the Baltimore seminary, conscious of its Heidelberg inheritance, proposes now to build up an American collection which shall represent the history, laws, and institutions of the new world. Already since the acquisition of the Bluntschli collection, the seminary library has increased to over eight thousand volumes. Besides many private donations, it has received two large gifts of government documents, one from the state department, the other from the department of the interior; and it will henceforth be one of the Maryland repositories for all public documents issued by the United States. The seminary has sent out a circular letter to secretaries of the individual states, mayors of cities, and to prominent officials in various stations, requesting donations of documents and reports for the increase of its library; and the returns are altogether gratifying. It is hoped that gradually the different strata of American institutional and economic history, from local and municipal to state and national life, may be represented in the scientific collections of the Johns Hopkins University.

## Bluntschli and Lieber Manuscripts.

The most cherished part of the seminary library is kept in a special case, devoted to the writings of Bluntschli and Lieber. The Bluntschli family understood well that the manuscripts of the deceased scholar and statesman would be most fittingly preserved in connection with his own library. Although the manuscript collection was no part of the original purchase made by the German citizens of Baltimore in the interests of the University, yet with the purchased library came also the manuscripts as a free gift. They comprise not alone the materials used in some of his great works, but also written lectures upon various subjects and even his note-books, kept while listening as a student to great masters like Niebuhr and Savigny. The note-books are all firmly bound and are written in the same neat, fine hand which characterized Bluntschli's manuscripts to the last. These note-books, quarto size, with six large pamphlet-boxes of written lectures and other manuscript materials, have for two of Bluntschli's pupils, now instructors in the department of history and economics, a certain *Affectionswerth;* and for all others who visit or use the library these original manuscripts are an object of very great interest. They are kept together with a complete set of Bluntschli's own writings, which are very numerous and include a large collection of special monographs. It is by a peculiar historic fitness that the published works and manuscripts of two men like Bluntschli and Lieber, who were devoted friends in life, are now brought together after their death. Bluntschli and Lieber never met face to face; they were friends, however, by long correspondence and by common sympathies. Lieber used to say that he in New York, Bluntschli in Heidelberg, and Laboulaye in Paris formed a "scientific clover-leaf," representing the international character of French, German, and Anglo-American culture.

The widow of Francis Lieber, rejoicing that the Bluntschli Library is now in America, has determined that the manuscripts of her husband shall henceforth be associated with those of his old friend. She has accordingly sent to the Johns Hopkins University the Lieber papers, with annotated, interleaved copies of his various works. They have all been placed in the same case with the Bluntschli writings, to which have been added the works of Laboulaye, so that the "scientific clover-leaf" will remain undivided. Lieber's bust, presented by his widow, now stands by the side of Bluntschli's portrait. Although Laboulaye became alienated from his two old friends in consequence of the Franco-Prussian war, yet, as Bluntschli well said, "that community of thought, science, and endeavor, which we represented for three peoples and for three civilizations, is not broken up, but will broaden and deepen and become more fruitful, as surely as the peculiar spirit and individual forms of nationality, existing of their own right, find their true harmony and highest end in the development of humanity."[1]

## The Pamphlet Collection.

The most available part of the Bluntschli Library is its pamphlet collection. Scholars were in the habit of sending to him their minor treatises; so that his collection of monographs is of a very superior character and, in all probability, could not be duplicated. The collection has been rapidly increased by frequent pamphlet-donations from President Gilman, Hon. George William Brown, and other members of the Board of Trustees; from lawyers in Baltimore and various friends of the University. The problem of adequately providing for the temporary exhibition and final preservation of

[1] Dr. J. C. Bluntschli, "Lieber's Service to Political Science and International Law," an article written by request as an introduction to the second volume of Lieber's Miscellaneous Writings, edited by D. C. Gilman, President of the Johns Hopkins University.

these incoming pamphlets was a difficult one to solve. Books are easily managed in alcoves and in department-groups, but the proper treatment of unbound, defenceless pamphlets is the hardest thing in library-administration. The solution attempted in the seminary is the preliminary exposition of new pamphlets in special groups,—law, politics, economics, social and educational questions, history, etc., upon a long table extending the full length of the Library at right angles with the book alcoves and following the alcove classification; *i. e.*, all historical pamphlets are in immediate proximity to historical books. Beneath the long table are very many pigeon-holes for the temporary classification of pamphlets and magazines that have passed the exhibition-stage. In their final treatment, magazines are bound and placed in a room specially devoted to bound journals; old pamphlets are gathered together in Woodruff-files (now in general use in government departments at Washington) and are placed upon book-shelves by the side of that class of books to which the pamphlet category belongs. The Woodruff-file holds a vast number of pamphlets upright, with the title-pages facing the person opening the file. This receptacle has a wooden front, bearing the label of the pamphlet-class, and opens like a drawer. The rapidity and ease with which pamphlets can thus be handled are very great improvements upon old-fashioned pamphlet-cases or Clacher-boxes. With all pamphlets indexed in a card-catalogue by subject, author, and class, any minor treatise of a few pages may be as quickly found as a bound volume. For students, these minor treatises are often of more consequence than ponderous folios. The Woodruff-file can be made to suit pamphlets of any width or any height. The size chiefly used by the Seminary is eleven inches high, seven and three-quarters inches wide, and ten and one-half inches deep. These dimensions fit exactly the shelving allotted to pamphlets. It is very important to have the wooden front of sufficient height to fill the space between two shelves, in order to keep out dust. For the latter purpose,

the so-called "Clacher-box" is excellent. It has a spring-back and a bottom-slide upon which the pamphlets stand upright when drawn out from the case. Clacher-boxes are used in the Seminary upon the tops of revolving book-cases, where they stand firmly by their own weight and where pamphlets can be handled without touching the receptacle save opening its door and pulling out the bottom-slide.

## Pamphlet Groups.

The following classification of seminary pamphlets has been prepared as a simple report of progress, without any pretensions to completeness, even with reference to the seminary collections, wherein remains much material yet to be assorted. The list will serve to characterize the convenient method of grouping masses of pamphlets in Woodruff files. The rubrics will of course be differentiated and continually increased as new materials are added and as the old are gradually better arranged. Pamphlets cease to be rubbish as soon as they are classified upon scientific principles. "It is impossible to say," declares Justin Winsor, "what ephemeral publication may not become of cardinal interest."

### *Historical.*

Ancient History;—Church History;—European History;—United States; New England;—New York;—Pennsylvania;—New Jersey and Delaware;—Maryland;—Baltimore;—Virginia;—the South in general;—the Civil War;—Western States;—Territories, etc.

### *Political.*

Political Philosophy;—Political Science;—Administration;—Civil Service Reform;—Elections;—Representation (Minorities);—Political Questions;—(*a*) United States, (*b*) England, (*c*) France, (*d*) Germany, (*e*) Austria, (*f*) Switzerland, (*g*) Italy, (*h*) Greece; (*i*) Russia, etc.

### *International Law.*

General International Law;—Institut de Droit International;—International Conferences;—Arbitration;—Intervention;—Extradition;—Neu-

trality; — Treaties; — War; — Consular Reports; — Private International Law.

### *International Politics.*

Foreign Relations of the United States; — England; — France; — Germany; — Switzerland; — Italy; — Russia — Schleswig-Holstein; — Franco-Prussian War; — Eastern Question; — International politics in general.

### *Institutional.*

Institutions in general; — The Family; — Marriage; — Contracts; — Slavery; — Serfdom; — Nobility; — Land Tenure; — Local Institutions; — City Government; — State Government; — National Institutions; — Public Lands, etc.

### *Constitutional.*

United States; — England; — Switzerland; — Law of Cantons, (*a*) Appenzell-Lucerne, (*b*) Neuchâtel-Zürich; — German Empire; — Laws of German States, Anhalt-Würtemberg; — France; — Austria; — Italy; — Greece, etc.

### *Legal.*

Law in general; — History of Law; — the Civil Law in general; — Civil Procedure, (*a*) Roman, (*b*) in General; — Judicial Organization; — Criminal Law; — Penal Codes; — Sachsenspiegel; — Schwabenspiegel; — other early Codes; — Law of Personal Relations; — Succession; — Inheritance; — Swiss Private Law; — Law Tracts; — Law-Briefs (American); — Sales; — Literary Property, etc.

### *Economic.*

Economic History; — Baltimore Economics; — Maryland Economics; — Economics of Cities; — State Economics; — U. S. Finance; — Money; — Banking; — Checks; — Mortgages; — Debts; — Tariff; — Labor and Capital; — Laboring Classes; — Manufactures; — Commerce; — Shipping; — Railroads; — Canals; — Internal Improvements; — Agriculture; — Statistics, etc.

### *Social.*

Social Science, (*a*) American Association, (*b*) Philadelphia Association; — American Colonization Society; — Social Problems; — The Poor; — Prisons and Prison Reform; — Charities, (*a*) of Baltimore, (*b*) other Cities, (*c*) in general; — Organization of Charities; — Temperance Reform; — Sanitary Science; — Parks, Village and City Improvement, etc.

### *Religious and Ecclesiastical.*

History of Religions; — Religion in general; — Church and State; — Ecclesiastical Law; — Ecclesiastical Questions (Europe), (*a*) before the Vatican Council, (*b*) since the Vatican Council; — Religious Questions in America; — Religion and Science, etc.

*Educational.*

Education in general; — Education in Baltimore; — Peabody Institute; — Johns Hopkins University; — Universities and Colleges; — Common Schools, — Education in New England; — Southern Education (Slater and Peabody Funds); — Indian and Negro Education; — Industrial Education; — Bureau of Education; — Libraries; — Library Administration; — Bibliographies; — Catalogues and Book Notices.

Since the above list was prepared the seminary has received a large donation of pamphlets from Hon. George W. Dobbin, president of the board of trustees, also the loan, by the president of the university, of a large portion of his private and official collections. This new material greatly enriches the pamphlet-stores of the seminary, and will lead to the formation of many new rubrics. The most recent donation of pamphlets is that received March 10, 1884, from Mrs. Francis Lieber, of Newport, R. I., who has contributed a valuable private collection of Dr. Lieber's monographs and a rare set of pamphlets relating to the Mexican Claim Commission, upon which Dr. Lieber served as umpire. It is interesting to find, among the Lieber papers, articles that were sent him by Bluntschli, and, among the Bluntschli pamphlets, many that were presented by Lieber.

## The Newspaper Bureau.

One of the most interesting, if not the most valuable features of the seminary library, is the so-called newspaper bureau. This consists primarily of an office wherein the newspapers of the day are reduced to their lowest terms for purposes of historical and political science. Files of representative journals are contributed to the seminary by the Young Men's Christian Association, the University Club, and by the Mercantile Library, of Baltimore, while many critical journals are obtained directly for the seminary by private donation or in exchange for university publications. Certain files, like the Saturday Review, The Nation, The American (of Philadelphia),

The Literary World, The Critic, The Economist, Bradstreet's, &c., are preserved for future reference; but the great majority of papers are cut to pieces for scientific purposes. A competent force of graduate students work an hour or two each week under the direction of one of their number, who is a trained editor, and mark superior articles upon economic, political, social, educational, legal, and historical subjects. These marked papers are excerpted during the succeeding week by an office-boy and, afterwards, the editor in charge, with the aid of the two fellows, scholars, and students in the department of History and Politics, assort the articles into their various categories and arrange them upon alphabetical principles in newspaper budgets, which are kept in large congress-envelopes, or oblong boxes, bearing each its printed label and all classified alphabetically in four hundred compartments, somewhat like those of a post-office, except that they are arranged in an upright position upon an inclined plane, so that the labels, upon the upper end of the boxes, easily catch the eye. These boxes bear such labels as Army and Navy, Archæology, African Exploration, Australian Confederation, Baltimore (History, Government, &c.), Banking, Biography, Butlerism, Canals, Charities, City Government, Civil Service, Commerce and Trade, Communism and Socialism, Competition, Co-operation, Debts and Repudiation, Divorce, Egypt, Forestry, Immigration, Indian Question, Institutions, Jewish Question, Journalism, Labor, Land, Money, Negro Question, Population, Parks, Railroads, Strikes, Telegraphs, Telephones, Temperance, Universities, Women, etc. When the boxes become full, they are referred to special committees for further reduction and further differentiation. Thus the subject-categories continually increase, and, when the post-office compartments become inadequate, Woodruff-files, or some other good device, will be employed, and the newspaper-budgets will thus finally become classified like pamphlets.

While by far the greater portion of the newspaper-clippings find their way into these envelope-boxes for future reference

and final sifting by special committees (thus furnishing sometimes suggestive materials for a report to the seminary) the choicest extracts from a few leading papers, which are clipped almost as soon as they come, are placed upon special bulletin-boards devoted each to some one department. There is one board for Foreign Intelligence or International Politics, where in turn appear France in Asia, the question of international control of the river Congo, England in Egypt, etc. Another bulletin-board bears the heading "American Politics," with special sub-headings chalked out from week to week. A third board is devoted to Economic and Social Questions, where the Tariff figures largely. A fourth space is given up to General History; a fifth to Ecclesiastical matters; and a sixth, the largest of all, to Book Notices, Education, University affairs, and student-interests in general. The sub-headings under which the various clippings are grouped are changed from week to week, when the old material is cleared off and a new lot tacked up. The idea is to exhibit the current topics for a week's time, in so far as they relate to the interests of the seminary. The young men who attend to these bulletin-boards for their fellow students are learning not only critical and orderly methods, but also the potential process of making up a journal of historical and political science. They are learning to be journalists and editors. Without professing to be a school of journalism, the seminary has furnished writers for each of the prominent papers in the city of Baltimore and for some at a distance, while several of its members have secured editorial positions.

But the chief advantages of the newspaper bureau are for the seminary at large. The classification and preservation of the best articles on economic, social, and political topics are found by all to be exceedingly useful. How often does one wish that he had saved the report of some court decision, important trial, political discussion, scholar's address, a statesman's speech, a department report, a mayor's message, divorce statistics, new facts and illustrations! How often these things

would work into the warp and woof of a student's task, if he could only lay his hand upon them at the right moment! It is idle to disparage the daily press; it is worse than idle to sneer at present politics. Some of the best energies of our time are revealed in the newspaper and in politico-economic discussion. We may believe one of Berlin's professors when he says, "*Das was heute Politik ist, gehört morgen der Geschichte an.*"[1] This is only another form of the motto adapted from a saying of Mr. Freeman's—History is past Politics and Politics is present History,—a motto printed upon the wall of the seminary, immediately above the newspaper cabinet and by the side of the English historian's portrait. So well does Mr. Freeman appreciate the political spirit of the historical seminary that he sends it almost every fortnight a budget of English newspapers, with marked articles, for example, upon the Lord Mayor, London Municipal Reform, Borough Elections, the Speaker of the House of Commons, Government and the Suez Canal, Canada, Australian Confederation, the Flemish Movement in Belgium, the Norwegian Ministry, the Queen's Speech, Mr. Freeman's Lecture before the Gloucester Cathedral Society, Henry George, Land Reform Union, Representation, the Parliamentary Franchise, the Stowe Manuscripts in the British Museum.

A most interesting illustration of the value of newspapers, even for the student of the Norman Conquest, is the report published in the the Sussex *Express*, August 4, 1883, of the Proceedings of the Royal Archæological Institute, during its last summer excursion to Lewes,[2] the Castle of Pevensey, to Hastings, and the hill of Senlac, when Mr. Freeman reviewed, in open air, the story of Harold and the Norman invader. If

[1] What is Politics to-day, becomes History to-morrow.—Droysen, Historik, 4.

[2] Mr. Freeman's address at the annual meeting of the Archæological Institute at Lewes, July 31, 1883, is printed in the Archæological Journal, vol. xi, 335, "The Early History of Sussex."

historians and newspapers can make such scenes live anew and kindle signal interest among students on this side of the Atlantic, then are historical writings and newspaper heralds worthy of honorable association.

## List of Journals.

The following special journals, magazines, reviews, newspapers and other periodicals are at present received by the Seminary of Historical and Political Science. Some are obtained by subscription; others in exchange for University publications; still others by donation or through the courtesy of public officials. The seminary is under special obligations to the Mercantile Library, the Young Men's Christian Association, the University Club (all of Baltimore) for the gift of newspapers for clipping purposes; to the University Library for the deposit of special reviews in the department of Historical and Political Science; and to the Publication Agency of the University for the care taken in securing exchanges that are useful to students of history, economics, and social problems.

### *Historical.*

Revue Historique, bi-monthly, Paris; — Bulletins de la Société Historique et Cercle Saint Simon, occasional, Paris; — Historische Zeitschrift, bi-monthly, edited by H. von Sybel, Munich and Leipzig; — Antiquarian Magazine, monthly, edited by Edward Walford, London; — Proceedings of the American Antiquarian Society, Worcester, Mass.; — Proceedings of the Numismatic and Antiquarian Society, Philadelphia; — The American Antiquarian, quarterly, edited by the Rev. S. D. Peet, Chicago; — Proceedings of the American Historic, Genealogical Society, Boston; — The Magazine of American History, edited by Mrs. Martha J. Lamb, New York; — Pennsylvania Magazine of History and Biography, Philadelphia; — Maryland Historical Society Fund Publications, occasional, Baltimore; — Southern Historical Society Papers, monthly, edited by the Rev. J. William Jones, Richmond; — Essex Institute Historical Collections, quarterly, Salem, Mass.; — Contributions of the Old Residents' Historical Association, occasional, Lowell, Mass.; — The Bay State Monthly, published by John A. McClintock & Co., Boston; — The Granite Monthly, edited by J. N. McClintock, Concord, N. H.; — Kansas City Review (of Archaeology and Anthropology) edited by T. S. Case, Kansas City, Mo.; — The United Service, a monthly review of military and naval affairs, Philadelphia.

## *Political.*

### A.—FOREIGN MAGAZINES.

Zeitschrift für die gesammte Staatswissenschaft, bi-monthly, edited by Doctors Fricker, Schäffle, and Wagner, Tübingen; — Preussische Jahrbücher, monthly, edited by H. von Treitschke and H. Delbrück, Berlin; — Jahrbuch für Gesetzgebung, Verwaltung and Volkswirthschaft im Deutschen Reich, in parts, edited by Gustav Schmoller, Leipzig.

### B.—AMERICAN SPECIAL PUBLICATIONS.

Civil Service Record, monthly, Boston and Cambridge; — Publications of the Civil Service Reform Association, New York; — Congressional Record, daily, Washington; — Monthly Bulletin of the Publications of the U. S. Government, James Anglim, Washington; — Journal of the House of Delegates and Senate Journal, daily, Annapolis.

### C.—WEEKLY PAPERS.

The Nation, New York; — The Weekly Press, Philadelphia; — The American, Philadelphia; — The Advertiser, Boston; — The Sunday Herald, Boston; — The Springfield Republican; — The Cincinnati Weekly News; — San Francisco Weekly Bulletin.

### D.—DAILY PAPERS.

The Sun, The American, The Day (all of Baltimore); —The Post, Washington; — Evening Post, New York; — New York Herald; — New York Tribune; — Cincinnati Commercial; — Chicago Tribune; — St. Louis Republican; — Minneapolis Tribune; — Toronto Globe; — Louisville Courier; —Richmond Dispatch; —Charleston News and Courier; —Boston Journal; — Der Deutsche Correspondent (Balto.)

## *Economical.*

The Bankers' Magazine and Statistical Register, monthly, edited by Albert S. Bolles, New York; — Bradstreet's,—A Journal of Trade, Finance, and Public Economy, weekly, edited by W. D. Ford, New York; — Economic Tracts, published by the society for political education, New York; — The American Protectionist, weekly, edited by Marcus Hanlon, New York; — The American Free Trader, monthly, New York; — The Economist, weekly, London; — The Investor's Manual, weekly, London; — L'Économiste Français, weekly, Paris; — Journal des Économistes. Revue de la Science Économique et de la Science Statistique, monthly, Paris; — Jahrbücher für National ökonomie und Statistik, monthly, edited J. Conrad, Jena; — Baltimore Manufacturer's Record, weekly; — Annual Reports of the Secretary of the Treasury on the state of the Finances, Washington; — Bulletin of the

National Association of Wool Manufacturers, quarterly, edited by J. L. Hayes, Boston; — Annual Reports, Baltimore Corn and Flour Exchange.

### *Statistical.*

Journal of the Statistical Society, quarterly, London; — Zeitschrift des königlich. Preussischen Statistischen Bureaus, semi-annual, edited by E. Blenck, Berlin; — Quarterly Reports of the Bureau of Statistics, Joseph Nimmo, Washington; — Statistical Abstract of the United States, occasional, Joseph Nimmo, Washington; — Reports of the Bureau of Statistics of Labor, Massachusetts, Carroll D. Wright, Boston.

### *Geographical.*

Petermann's Mitteilungen aus Justus Perthes's Geographischer Anstalt, monthly, edited by Dr. E. Behm, Gotha; — Publications of the United States Coast Survey and of the U. S. Corps of Engineers.

### *Municipal.*

Mayors' Messages and Reports of City Officers, annual, Baltimore, Boston, New York, Brooklyn, Providence, Chicago, St. Louis, San Francisco, Charleston, Cleveland, Toledo, Kansas City, etc.

### *Social.*

La Réforme Sociale, fortnightly, Paris; — Reports of the Chief Inspector of Factories and Workshops, Blue Books, annual, London; — Howard Association Reports (for crime-prevention and penal reform), annual, London; — Reports of the State Board of Health, Lunacy, and Charity, Massachusetts, annual; — The Journal of Social Science, containing the Proceedings of the American Social Science Association; — Publications of the Philadelphia Social Science Association; — Reports of the Society for the Protection of Children from Cruelty and Immorality, annual, Baltimore; — The American Sentry, weekly, New York; — Progress, weekly, Philadelphia; — The Woman's Journal, weekly, Boston; — Annual Reports of the New York Society for the suppression of vice.

### *Socialistic.*

The Christian Socialist, monthly, London; — Justice, weekly, London; — To-Day, monthly, London; — Wochenblatt der New Yorker Volkszeitung; — Die Fackel, Sonntagsblatt der Chicagoer Arbeiter-Zeitung, Socialistic Publishing Co., Chicago; — Vorbote, unabhängiges Organ für die wahren Interessen des Proletariats, weekly, Socialistic Publishing Co., Chicago; — Truth, a Journal for the Poor, edited by B. G. Haskell, San Francisco; — Sociologist, monthly, Knoxville, Tenn.; — Le Prolétaire, organe officiel de

la fédération des travailleurs socialistes, weekly, Paris; — The Free Soiler (advocating the nationalization of Land), monthly, edited by J. B. Robinson, New York.

### *Legal and International.*

Revue de Droit International et de Legislation Comparée, monthly, edited by Alphonse Rivier, Bruxelles and Leipzig; — Reports from the Consuls of the United States; — the Legal Adviser, weekly, edited by E. M. Haynes, Chicago.

### *Religious and Ecclesiastical.*[1]

The Christian Union, weekly, New York, edited by Rev. Lyman Abbot and H. W. Mabie, New York; — The Congregationalist, weekly, edited by Rev. H. M. Dexter, Boston; — The Independent, edited by Rev. W. H. Ward, New York; — N. Y. Observer, weekly, edited by Rev. Irenaeus Prime; —The National Baptist, weekly, edited by Rev. Dr. Wayland, Philadelphia; —The Christian Intelligencer, weekly, edited by Rev. J. M. Ferris and Rev. N. H. Van Arsdale, New York; — The Christian Advocate, weekly, edited by J. M. Buckley, D. D., New York; — The Examiner, weekly, published by Bright, Church & Co., New York; — The Presbyterian, weekly, edited by Rev. Dr. Grier, Philadelphia; — New York Weekly Witness, edited by John Dugall, *et al.*; —The Churchman, weekly, New York; —The American Literary Churchman, fortnightly, edited by Rev. William Kirkus, Baltimore; — Southern Churchman, weekly, edited by Rev. Dr. Sprigg, Richmond; —The Presbyterian Observer, weekly, edited by Rev. J. M. Maxwell and W. J. Graham, Baltimore; —The Catholic Review, weekly, edited by P. V. Hickey, New York; — The Standard, weekly, edited by J. A. Smith, D. D., Chicago; —The Western Christian Advocate, weekly, edited by F. S. Hoyt, D. D., and J. J. Hight, D. D., Cincinnati; — The Episcopal Methodist, weekly, Rev. W. K. Boyle, Baltimore; — The Cumberland Presbyterian, weekly, edited by J. R. Brown, D. D., and D. M. Harris, D. D., Nashville; — The Protestant Standard, weekly, edited by Rev. J. A. McGowan, Philadelphia; —The Methodist Protestant, weekly, edited by E. J. Drinkhouse, D. D., Baltimore; — The Christian World, weekly, edited by Rev. E. Herbruck and Rev. M. Loucks, Dayton, O.; — Der Lutherische Kirchenfreund, weekly,

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[1] This department of religious periodicals is in the special charge of the Rev. J. A. Fisher, a graduate student, who is interested in American Church History. He finds the religious press extremely valuable for fragments of denominational history; bibliographical references; discussions of religious, educational, and social questions; court decisions on ecclesiastical property; ecclesiastical trials; statistical tables; denominational colleges, church and school; church architecture. In a religious paper attention is called to a newly discovered MS. of the second century, throwing light on the origin of church government (see *The Independent*, February 28, March 6, 13, 1884).

Chicago; — The Christian Observer, weekly, edited by Rev. F. B. and T. E. Converse, Louisville; — The Episcopal Recorder, weekly, edited by Rev. Wm. Newton, D. D., and Saml. Ashhurst, M. D., Baltimore.

### *Literary and Educational.*

The Literary World, fortnightly, Boston; — The Critic and Good Literature, edited by J. L. and J. B. Gilder, New York; — The Current, weekly, edited by E. L. Wakeman, Chicago; — The Overland Monthly, San Francisco; — Publications of the City and Guilds of London Institute for the advancement of Technical Education; — Annual Reports of the Public Education Association, Philadelphia; — Publications of the Cleveland Educational Bureau (Books for the People); — Ward and Lock's Penny Books for the People (Historical and Biographical Series), London; — The School Herald, fortnightly, edited by W. I. Chase, Chicago; — The Southern Workman, monthly, edited by S. C. Armstrong and H. W. Ludlow (printed by students) Hampton, Va.; — The Morning Star, monthly, Carlisle, Pa. (representing the Indian Industrial School); — The Week, McDonogh Institute, Baltimore County, Md. (printed by the boys and representing a remarkable juvenile society, soon to be described in the "Studies"); — The African Repository, quarterly, Washington, D. C. (organ of the American Colonization Society); — The Herald-Crimson, daily, Cambridge, Mass.; — The Amherst [Mass.] Student, fortnightly; — Johns Hopkins University Circulars, monthly, Baltimore.

### *Bibliographical.*

Harvard University Bulletins, quarterly, edited by Justin Winsor, Cambridge; — Bulletins of the Boston Public Library, quarterly; — Monthly Reference-Lists, edited by W. E. Foster, Providence Public Library, R. I.; — Worcester Free Public Library, Lists of Additions, with Notes, monthly, edited by S. S. Green.

The above lists represent merely the special periodical literature, which is given or entrusted to the seminary by associations, the general library administration, the publication agency, and various other friends. All magazines and journals which are of general scientific or literary interest to the University public are kept in the University reading room. Whatever is thought to pertain more especially to work going on in historical and political science is relegated to that department. Some few journals, for example *The Nation* and certain library bulletins, are taken in duplicate. In the eighth annual report of the president of the University, there is pub-

lished a list of foreign exchanges. The last printed list of the periodical literature received by the University was issued in the Annual Register of 1880–81.

## The Historical Museum.

At the present time, the seminary library of historical and political science begins with relics of the stone age and ends with the newspaper. At one end of the room are the first collections for an anthropological museum; at the other is a bulletin-board for university news. A good foundation of an historical museum was made last May by Mr. William Ellinger, formerly of Baltimore but now a resident of Arizona, who contributed a valuable collection of lacustrine relics from Neuchâtel, — axes, spear-heads, knives, spindle-whorls, ornaments representing the stone and bronze ages of Switzerland. Numerous utensils and missile weapons belonging to the stone age of Virginia have since been given by the Rev. Dr. Randolph, formerly rector of Emanuel Church, Baltimore, now Assistant Bishop of Virginia. Memorials of the stone age of Maryland have been presented to the university by Colonel B. F. Taylor, of Kingsville, Baltimore county, near the site of "Joppa," where the seminary found its first stone axe two years ago. This latter relic of the Maryland aborigines and an unearthed brick, which identified the site of the first court-house in Baltimore county, were for a long time the only objects of archæological interest in the seminary-library. They led to a jocose observation in one of the Baltimore city papers that the Johns Hopkins University Museum consisted of an Indian hatchet and a brick-bat. This facetious remark, copied with pardonable malice by the press of Boston, was literally true. It characterized our museum about as cleverly as *The Nation* described the Johns Hopkins in 1876, when it was suggested that its trustees appeared to believe they could have a university in tents and a library in soap-boxes.

But the library and the university have grown somewhat since that day and the museum also is destined to grow.

Although beginning in small ways, student-interest in archæological and historical collections is manifestly increasing. After the exhibition of the Ellinger collection in the Bluntschli Library, three young men who had lived for many years in Rome began to enrich the museum of prehistoric relics with Etruscan pottery, vases from the ancient city of Veii, Roman lamps from the bottom of the Tiber, Christian lamps from the catacombs, a collection of coins with the image and superscription of the Cæsars from Augustus to Romulus Augustulus. Symbols of the entire history of the Roman Empire and of prehistoric Europe have thus been added to the Indian hatchet and the brick-bat. Rome was not built in a day, nor yet is an anthropological museum; but the corner-stone is laid.

The special advantages are great for the up-building in Baltimore of a collection of artistic and literary memorials illustrating the historical progress of our race. There are valuable Egyptian treasures in this city which, it is hoped, will some day be brought to the university. There are classic monuments, worthy of preservation in some museum of science. The Church, too, in this truly catholic city, has many artistic and literary symbols which it is the duty of science and religion alike to place in their proper historic connection for the instruction of clergy and students.

It is of no small advantage in the up-building of such a museum for members of the Johns Hopkins University to have access to such a wonderful collection of early typographical art, illuminated missals, breviaries, rare editions of the schoolmen, church fathers, and of the classics as the Stinnecke Library, collected by the late Bishop Whittingham, and now belonging to the diocese of Maryland. Great is the privilege now enjoyed of freely visiting such a rare private library as that of Mr. John W. McCoy,—a library rich beyond present description in works of art-history, in collections of photographs, prints, and engravings of the old masters. Great also are the pleasure and profit of occasionally visiting such a choice

gallery of modern painting as that owned by Mr. William T. Walters,[1] or Mr. John W. Garrett. Inestimable is the benefit that a student may derive from the collections of the Peabody Institute, its new museum of plastic art, its costly plates and rare engravings, in short, its entire literary apparatus. These things all belong to the existing vantage ground, to the municipal environment of Baltimore.

Not the least of the practical advantages in the development of the museum-idea at the Johns Hopkins University is the proximity of Baltimore to Washington. The collections of the Smithsonian Institution and of the National Museum are within easy reach. Institutions and men often acquire strength by contact. A university in the environment of a national government which expends over three million dollars annually for scientific purposes, is well placed, even though it enjoys no great share in the distribution. The advantage lies in access to government collections, such as the National Museum and the Congressional Library, and in associations with government officials who are interested in university-work. It is no small thing for university-students to visit the National Museum under the instructive guidance of Major J. W. Powell, director of the Bureau of Ethnology, and chief of the Geological Survey. It is also no small thing to have such a man address, one day the Historical Seminary upon Indian Sociology, and, the next day, the newly formed Archæological Society upon the subject of Indian Art. These things are accomplished facts, and they represent stepping-stones for the up-building of the museum-idea in Baltimore.

It is not proposed to limit the Historical Museum to American Archæology, or to Prehistoric times, not yet to

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[1] Appreciative articles on Mr. Walter's remarkable collections of Japanese art and modern paintings, which were newly exhibited Feb. 26, 1884, appeared in the New York Tribune Feb. 27 and March 3, 10; in the Boston Weekly Advertiser Feb. 29, and in all the Baltimore papers Feb. 27, 1884.

Egyptian or any historic period, but to select a few things that are illustrative or typical of all times and of all phases of human progress. "Denn das Einzelne ist auch ein Ausdruck des Ganzen, in dessen Zusammenhang es seine Stelle hat, und ist es um so mehr als es typischer ist."[1]

### Geographical Bureau.

In addition to the Historical Museum (which in all probability will soon be removed from the Seminary library and placed upon a broader basis) there is now developing a so-called Geographical and Statistical Bureau. Here maps, charts, diagrams, &c., of physical and historical geography have been collected together and conveniently classified for the use of University students and instructors. The atlases and smaller portfolios are kept upon slides, arranged one above the other in a tier, but with open fronts, so that the titles of the folios can be easily seen. Wall maps are rolled up, ticketed, and suspended upon hooks, whence they can be quickly removed for temporary use in any class-room of the University. Great masses of loose maps, like those published by the United States Engineer Corps, and by the Government Surveys, can be easily controlled by means of a large chart table, fitted up with drawers of different sizes, each drawer furnished with an ingenious appliance (invented in one of the Government Departments at Washington) for raising a great mass of maps by means of an inserted slide which liberates the map beneath so that it can be drawn out without friction. In the geographical room are also collected the gazetteers, topographical dictionaries, histories of geography, treatises on comparative geography, Ritter's Erdkunde, Petermann's Mitteilungen, the writings of Peschel, Guyot, Reclus, Behm, etc.; the journals and bulletins of geographical societies; books of explorations, travels, voyages, etc. Here

[1] Droysen, Historik, 24.

also are the reports of the United States Coast and Geodetic Surveys. Reports of the various state and railroad surveys, of all the early military expeditions and government explorations, will gradually be added.

In the Johns Hopkins University, physical and historical geography are made the basis of instruction in historical and political science. By the aid of the best maps, more especially of relief maps, attention is called, in a course of class lectures, to the physical structure and conformation of various historic lands; to the influence of coast-lines, harbors, river-courses, plain and mountain, soil and climate, upon a nation's character and history. Such object-lessons concerning the physical structure of the earth's surface become an important means for teaching the outlines of universal history. For example, amid all the variation of political species and of the political geography of the Nile Valley, the valley itself remains to-day the basis of the Egyptian question. Not only ancient but modern history of Egypt becomes more intelligible from a consideration of its physical geography. The remotest past can be connected with the immediate present by such a bridge. England's occupation of Egypt seems not so far removed from the Roman conquest when we consider a map of the Mediterranean basin and study its relation to the eternal Eastern Question. The gradual discovery and political occupation of the world by the powers of christendom, the heirs of old Rome, can be shown by a series of maps whereon the widening areas of geographical knowledge are sharply outlined. Students should learn from maps of African exploration and of circum-polar observations that the old work of conquest is still going on. The relation of European States to Western Africa and to the opening of the river Congo is much the same in principle as the relation of Spain, Portugal, France, and England to the opening of the new world. For most students comparative history, like comparative geography, is almost an undiscovered country. The

two sciences go hand in hand and can surely be fostered together.

In the geographical bureau has lately begun an interesting study of the local geography of Baltimore, with a view to the preparation of a better physical and topographical map than any now in existence. This study, begun in the interests of the University Field Club by Mr. A. L. Webster (lately connected with the U. S. Geological Survey), will be for local geography what a study of town and parish records is for local institutions. The first step is to examine every thing that is already known about Baltimore geography, to collect all the maps that are available, then to discover fresh facts by exploration and to apply modern scientific methods to a new graphical representation of the entire field. There will be a certain valuable process of education for students in collecting new information for this map, and also in learning the practical arts of modern topography.

### Statistical Bureau.

Adjoining the geographical room is a room devoted to statistics. Here are collected the census reports of the United States and of certain foreign countries and foreign cities. The publications of the Prussian Bureau of Statistics and of our own national bureau are fairly represented, together with the statistical documents published by the individual states and cities of the Union. Here is gathered whatever relates to the population and products of the earth; national resources; public domains; forests; crops; fisheries; railroads; canals; industries; international expositions. Here also are the various files of almanacs, calendars, statesman's year-books, hand-books of statistics, &c. The possibilities of development for such a department are very great, if proper attention is bestowed upon it. One has only to examine the catalogue of the Prussian Bureau of Statistics, with its 80,000 volumes, to realize what this science means.

## The Historical and Political Science Association.

The question is often asked, in what respect is the Historical and Political Science Association different from the Seminary of Historical and Political Science. The answer is that the Seminary is, and always has been, the inner circle of university-students; the Association is the Seminary in its associate capacity, which embraces an outer circle of honorary members. The Seminary is the active membership, the life-principle of the Association, which latter is maintained by natural selection and the survival of the fittest.

The origin of the Historical and Political Science Association dates back to the 19th of December, 1877. It was a natural development of the original Historical Seminary, which had been in existence since the opening of the University, and which was early spoken of as an Historical Association. The following extract from original records indicates the purpose of the new organization. "At the meeting of the Historical Association [Seminary], held December 15, [1877,] it was expressed as the sense of that body that there should be formed, under the auspices of the University, an organization which may take cognizance of other than historical questions and embrace among its members other than historical students."

The enlarged idea of the original Seminary was to form an association with students of political science, more especially with certain young lawyers in the city of Baltimore, who were engaged in the pursuit of this branch of learning. The scope of the Historical Association was to be widened into a kind of *Staatswissenschaftlicher Verein*, or Political Science Union like that in Heidelberg University, which organization had some influence upon the Baltimore Association. Students, professors and a few professional men, interested in historical and political studies, met together one evening each month in Hopkins Hall for the discussion of papers or communications which were thought to be of more general

interest than those ordinarily prepared in connection with class lectures or seminary work. The Association was regarded as a public meeting of the Seminary, with its invited guests.

The total membership originally comprised about a dozen graduate students and young instructors, some of whom were more especially devoted to the study of literature and philology. Among such associate members were Dr. Charles R. Lanman, now professor of Sanskrit in Harvard University; Dr. Josiah Royce, lecturer on philosophy in the same institution; Dr. Maurice Bloomfield, now associate professor of Sanskrit, Johns Hopkins University; Mr. A. Duncan Savage (at one time associated with Cesnola in the New York Metropolitan Museum); Mr. Allan Marquand, the newly appointed professor of art history at Princeton College; and several others. The membership gradually increased to about forty, through the election of certain young lawyers and other gentlemen of culture in the city of Baltimore. The attendance upon the monthly meetings of the Association sometimes ranged as high as fifty persons. The president of the University has always been the acknowledged head of the Association and occasionally presides at its meetings. The original secretary was Dr. Henry Carter Adams, now professor of political economy in Cornell and Michigan Universities. The present director of the Seminary succeeded to the secretary's office in the Association, December 19, 1878.

The character of the Association has changed with the character and size of the Seminary. Student-members have graduated and many former associate-members have given place to more active workers. The Seminary, or the inner circle, has gradually increased since 1876 from six or eight working members to twenty-five. No undergraduates, and no graduates who are not devoting their chief energies to Historical and Political Science in the Johns Hopkins University, are now permitted to join the Seminary. The associate-members still retained, or chosen from time to time by

this body, are naturally somewhat different from those formerly enrolled. The present custom is to regard as associates of the Seminary, those whom it wishes to honor or those who have contributed to its published studies, or public proceedings, by an original paper or a reported address. Among such honorary associate members are Dr. Frank Austin Scott; Hon. T. M. Cooley; Professor Henry Carter Adams; W. T. Brantly, Esq. (Baltimore); Professor William F. Allen; Edward A. Freeman, LL. D.; Professor Dr. H. von Holst; James Bryce, M. P.; Hon. Andrew D. White; Dr. Wm. Hand Browne; Professor Justin Winsor; Professor E. Emerton (Harvard); Dr. Edward Channing (Harvard); Dr. Denman W. Ross (Cambridge, Mass.); Professor George S. Morris; Dr. G. Stanley Hall; Professor Alexander Johnston (Princeton); Hon. John H. B. Latrobe (President, Md. Hist. Soc.); John C. Rose (Asst. Professor, Univ. of Md.); Colonel William Allan (McDonogh Inst.); Rev. Dr. Philip Schaff (Union Theol. Sem.); Talcott Williams (The Press, Phila.); William B. Weeden (Providence, R. I.); W. E. Foster (Providence); Professor Jesse Macy (Iowa Coll.); Professor James K. Hosmer (St. Louis); Hon. Isaac D. Jones (Balto.); Rev. E. D. Neill (St. Paul); Joseph M. Worthington, M. D. (Annapolis); Jno. R. Quinan, M. D. (Balto.); W. T. Croasdale (Balto.); Dr. S. A. Harrison (Easton); Henry E. Shepherd (President, Coll. City of Charleston, S. C.); Professor James A. Harrison (Washington and Lee); Major J. W. Powell (National Museum, Washington); and several young lawyers and teachers in Baltimore.

### Contributions to the Association, 1877–79.

Partial lists of contributions to the proceedings of the Association, from December 19, 1877, to April 4, 1879, were printed in the Annual Reports of the Johns Hopkins University, for 1878 (p. 56) and 1879 (p. 67); but a more complete list, taken from the original records, with the date of each communication,

is given below. No mention is made of book-notices and reports upon historical and political journals, etc., which latter exercises form very essential features of both Seminary and Association meetings:

The Village Communities of Ancient Germany and Mediæval England. An Introduction to the Study of New England Towns and the Institutions of Local Self-Government in America. By H. B. ADAMS. December 19, 1877.

Tramps. A paper afterwards read before a public convention, in Baltimore, of Maryland gentlemen, for the discussion of the tramp-question. By H. C. ADAMS. December 19, 1877.

The Economy of Coöperation. An Essay afterwards read before the *American Social Science Association* at its meeting in Cincinnati. By H. C. ADAMS. January 11, 1879.

Review of Dr. Woolsey's Theories concerning the Educational Power of the State. By D. C. GILMAN. January 11, 1878.

Greek Cities. Fragments from Greek writers, illustrating the historical village community and the Federal Constitution of the Commonwealth of Greece. By A. D. SAVAGE. January 11, 1878.

The *Tractatus Theologico-Politicus* of Spinoza. A Philosophical Essay in which Spinoza was presented as the champion of religious liberty. By JOSIAH ROYCE. March 11, 1878.

The Punitive Power of the State. An inquiry into the grounds of legal punishment and an examination of the views advanced in Woolsey's Political Science. By WILLIAM T. BRANTLY. March 11, 1878.

Bribes in Greece. By W. J. BERRY. March 11, 1878.

Incidents of Historical Research in the State Department at Washington. By AUSTIN SCOTT. March 11, 1878.

The Grand Jury System. By Judge T. M. COOLEY. March 11, 1878.

The Ordinance of 1787 for the Government of the North-Western Territory. A paper showing the historic origin of this Act of National Legislation and the importance of the ordinance as an element of Constitutional Law. By AUSTIN SCOTT. March 29, 1878.

The original Conception of the Town as an Institution. By W. F. ALLEN, of the University of Wisconsin. March 29, 1878.

The Influence of Alexander Hamilton in the Formation of the Constitution of the United States. By JOSEPH H. TYLER. March 29, 1878.

The Maryland State Papers. A communication showing the wealth of historical materials now lying unpublished at Annapolis and in the library of the Maryland Historical Society. By H. B. ADAMS. March 29, 1878.

The Public School System; an inquiry as to its Foundations. By D. C. GILMAN. April 26, 1878.

The School System of Connecticut, with Particular Reference to that of New Haven. By F. A. WALKER, of Yale College. April 26, 1878.

The School System of Baltimore. By Hon. GEO. WM. BROWN. April 26, 1878.

Are Boards of Arbitration desirable? By GEORGE M. SHARP. April 26, 1878.

The Stone Age. A Review of Recent Works on Prehistoric Archæology. By H. B. ADAMS. October 11, 1878.

The Swiss Lake-Dwellings. By C. R. LANMAN. October 11, 1878.

The De-population of Central Greece in the Post-Classical Period. By E. G. SIHLER. October 11, 1878.

The National Archives. An explanation of the character and arrangement of the public documents and historical collections (letters, manuscripts, etc.) belonging to the United States. By AUSTIN SCOTT. October 11, 1878.

A Study of German Social Democracy. By A. MARQUAND. November 15, 1878.

A Review of the Question, "Was Maryland a Roman Catholic Colony?" By H. B. ADAMS. November 15, 1878.

Recent Complications in the School System of New Haven. By D. C. GILMAN. November 15, 1878.

Notes on Niebuhr's Life and Works. By E. G. SIHLER. November 15, 1878.

Lieber's "Reminiscences of Niebuhr." By D. C. GILMAN. November 15, 1878.

Primitive Aryan Mythology from the Standpoint of Indian Literature. By M. BLOOMFIELD. December 19, 1878.

Animistic Religion an Excrescence, not a Germ, of Vedic Religion. By C. R. LANMAN. December 19, 1878.

The Boundary Controversy between Maryland and Virginia. By E. GOODMAN. December 19, 1878.

Letter from Dr. Wm. Hand Browne upon Catholic Toleration in Maryland. December 19, 1878.

The first public Proposal of a Constitutional Convention for the United States. By AUSTIN SCOTT. December 19, 1878.

Methods of Historical Inquiry as Pursued at German Universities. A discussion of Seminaries and Seminary Libraries. By H. VON HOLST. January 24, 1879.

Maryland's Ratification of the Federal Constitution. By A. SCOTT. February 28, 1879.

The Position of Socialism in the Historical Development of Political Economy. By H. C. ADAMS. February 28, 1879.

Moral Insanity as a Cause of Crime. By C. W. NICHOLS. February 28, 1879.

The Problem for Political Economy in the United States. By H. C. ADAMS. April 4, 1879.

Attic Colonization. By E. G. SIHLER. April 4, 1879.

Methods of Historical Instruction as Pursued at Brown University. By Professor J. L. DIMAN. April 4, 1879.

All subsequent contributions to the Historical and Political Science Association are noted in the Johns Hopkins University Circulars, the publication of which began in December, 1879. Abstracts of the more important papers are there to be found and mention is made of most of the minor communications. No other records of the Association after October 23, 1879, have been preserved. A set of these abstracts has been arranged, with other printed matter, in a seminary scrap book. With the present year (1884) was instituted the office of a rotating secretary, serving for a single meeting. This institution was adopted from Professor Paul Frédéricq's seminary in Liège, and by him from Conrad's seminary in Halle. The advantages of the practice are the greater variety and interest resulting from the reports of rival secretaries, in addition to valuable training for students themselves. The reports are written by the various secretaries upon uniform paper and are duly arranged in the scrap-book, together with the printed abstracts of the proceedings as revised by the director of the seminary for the University Circulars. The basis of the printed abstract is usually furnished by the contributor of the reported paper.

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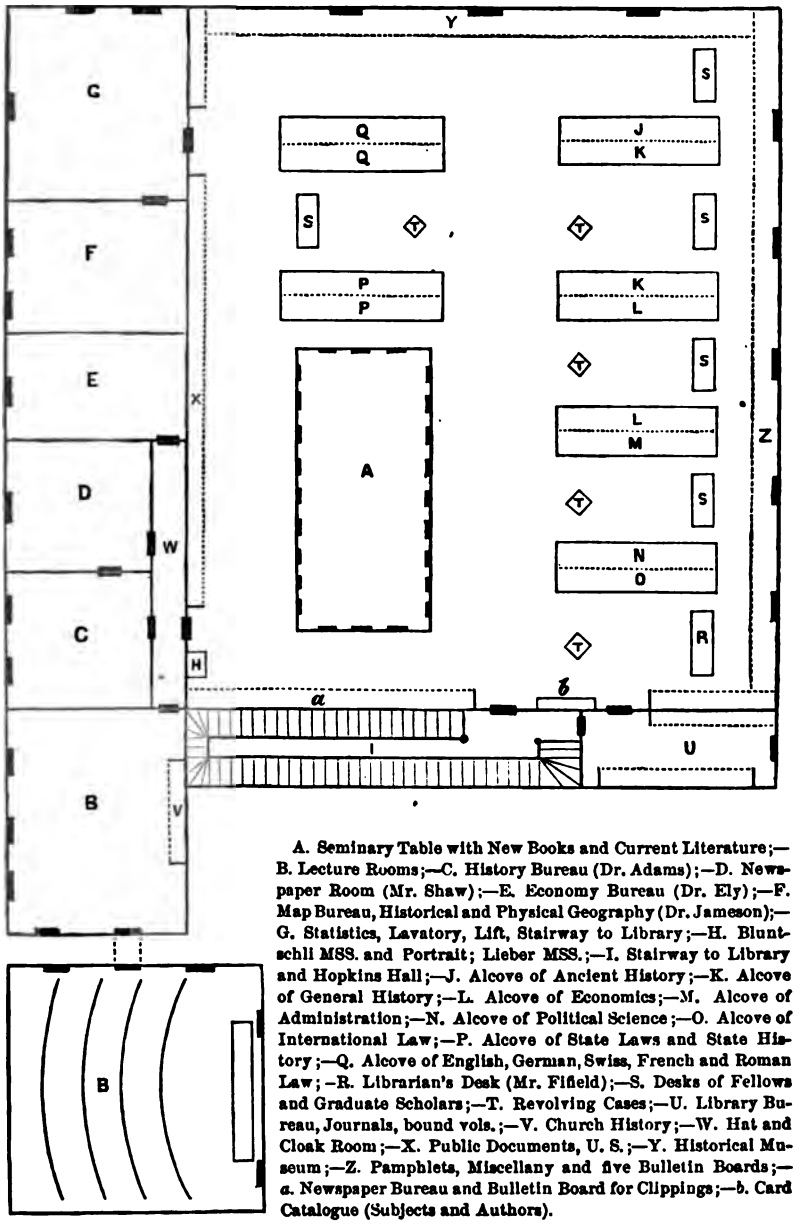
The diagram upon the opposite page, illustrating the Seminary of Historical and Political Science, was drawn by Edward Ingle.

# SEMINARY OF HISTORICAL AND POLITICAL SCIENCE.

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III

# THE PAST AND THE PRESENT

OF

# POLITICAL ECONOMY

"Ὁ ἄνθρωπος φύσει πολιτικὸν ζῷον."—*Aristotle.*

"All things whatsoever ye would that men should do to you, do ye even so to them."—*New Testament.*

"Die wirthschaftlichen Zustände und Entwickelungen der Völker dürfen nur als ein mit dem gesammten Lebensorganismus eng verbundenes Glied angesehen werden."—*Knies.*

"Ausgangspunkt, wie Zielpunkt unserer Wissenschaft ist der Mensch."—*Roscher.*

"Durch die Sitte baut der Mensch in die Natur eine zweite Welt, 'die Welt der Cultur' hinein. Und zu dieser Welt der Cultur gehört auch die Volkswirthschaft."—*Schmoller.*

"L'économie politique ne peut rien démontrer sans le secours de la statistique et de l'histoire; car ce n'est qu'en consultant ces deux sciences qu'elle peut apprendre ce qu'elle cherche, c'est-à-dire quelles sont les lois qui ont été utiles ou funestes aux nations."—*Laveleye.*

"When at length a true system of Economics comes to be established, it will be seen that that able but wrong-headed man, David Ricardo, shunted the car of economic science on to a wrong line, a line, however, on which it was further urged towards confusion by his equally able and wrong-headed admirer, John Stuart Mill. . . . It will be a work of labor to pick up the fragments of a shattered science and to start anew, but it is a work from which they must not shrink who wish to see any advance of economic science. . . . Our science has become far too much a stagnant one, in which opinions rather than experience and reason are appealed to.—*Stanley Jevons.*

JOHNS HOPKINS UNIVERSITY STUDIES
IN
HISTORICAL AND POLITICAL SCIENCE

HERBERT B. ADAMS, Editor

History is past Politics and Politics present History — *Freeman*

SECOND SERIES

III

# THE PAST AND THE PRESENT

OF

# POLITICAL ECONOMY

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# THE PAST AND THE PRESENT
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## I.—Introductory.

"The Wealth of Nations" was published in 1776. Its centennial was celebrated in 1876 with more or less formality in various countries. In England prominent politicians and economists held a symposium to do homage to the memory of its author, Adam Smith. The occasion was remarkable on more than one account. At that time it was the only book to which had ever been awarded the honor of a centenary commemoration; though since then, in 1881, the centennial of Kant's "Critique of Pure Reason" has been celebrated both at Concord and Königsberg. But the chief significance of the event, taken in connection with the discussion thereby evoked, consisted in the fact that, while it brought to light dissatisfaction on the part of political economists themselves with previous economic methods and conclusions, it was at the same time the herald of a new era in political economy. It announced to the world that a revolution in political, social, and economical sciences had already begun, and in various countries had met with no inconsiderable success.

[1] In this article will be found extracts from a paper published by the author under the same title in the *Overland Monthly* for September, 1883. The present essay is, however, an essentially different monograph.

Nevertheless, in 1876, as at present, there were not lacking ardent defenders of the earlier system. Upon the occasion referred to, a distinguished speaker claimed for Adam Smith "the power of having raised political economy to the dignity of a true science; the merit, the unique merit among all men who ever lived in the world, of having founded a deductive and demonstrative science of human actions and conduct; the merit, in which no man can approach him, that he was able to treat subjects of this kind with which political economists deal, by the deductive method." But the champions of this deductive science had already begun to feel disheartened at the attitude of the public with respect to it; and in the same year, Mr. Bagehot, an equally faithful follower of the old English school of political economy, wrote as follows: "The position of political economy is not altogether satisfactory. It lies rather dead in the public mind. Not only does it not excite the same interest as formerly, but there is not exactly the same confidence in it." And at the Adam Smith banquet itself, Émile de Laveleye, the distinguished Belgian professor, described a younger, rising school of political economists investigating economic problems with another spirit and different methods. Thus were brought together representatives of two schools: the older school proud of the age and respectability of their doctrines, but disheartened at the loss of public confidence; the younger school hopeful because convinced that the future belonged to them.

Although the contest between the opposing parties has continued from 1876 up to the present time, it cannot be claimed that a complete victory has been won by either side. The controversy has, however, been fruitful of good results, inasmuch as the differences between economists have related to the fundamental principles of the science, and new materials have been obtained for that firm foundation which is so manifestly essential to a safe superstructure.

A point has been reached where it is worth while to survey the fields occupied by the opposing forces, to examine the

ground yielded by either party and to ascertain their present relations to each other; and to do this is the purpose of the present paper.

Mention has already been made of an older and a newer school, which indicates a chronological difference of origin. But it must not be supposed that the lines can be drawn sharply, for such is not the case. There have always existed adherents of both parties. Nevertheless, the greatest strength of the one lies in a time past, that of the other in the present, and this circumstance justifies the convenient distinction of the title, "The Past and the Present of Political Economy."

These two main streams of economic thought have received various designations, each one of which is significant. They are called deductive and inductive, referring to methods pursued; English and German, referring to the land in which each had its origin and in which each has attained its highest development; idealistic and realistic, referring respectively to a foundation in the mind and to a basis in external nature.[1] The older political economy is also called classical, on account of superior age and wide acceptance; while the term Manchester is frequently applied to it, in the designation "Manchester School," reference being had to the locality which for some time served as a centre of propaganda for its peculiar doctrines.[2]

Two of these terms, deduction and induction, require further elucidation, as they have often been used in a loose and

[1] This does not mean that the realistic school neglects the consideration of psychological motives. It is, in fact, a one-sided designation. It calls attention to two characteristics of the schools in question, viz., the fact that the one finds its chief premises ready-made in the mind and has little to do save to develop them, while the other continually looks to the outside world for premises. The realistic school, however, studies the mind even more carefully than the idealistic, and corrects its imperfect psychology. The realistic is also idealistic, in the sense that it attempts to realize high ideals.

[2] Other more special designations of the newer school are mentioned further on, where its principles are discussed.

unintelligent way, and especially as the leaders of the two directions seem to be in doubt concerning their real purport, the same writer being called now deductive, now inductive, while other investigators appear at a loss to know which to style themselves. The extent of this confusion is made evident by the perusal of works like Cairnes's "Character and Logical Method of Political Economy" and Jevons's "Theory of Political Economy." As Professor Jevons points out, induction does not preclude deduction, and an entire absence of deduction is to be found in no treatise on political economy and in no economic monograph. However, deductive is applied to that political economy which, taking its ultimate facts, its premises, from other sciences, from common and familiar experience, or from the declarations of consciousness, proceeds from these and from definitions to evolve an economic system without any further recourse to the external world, save perhaps as furnishing tests of the validity of the reasoning. That was the character of the classical English political economy of which a good illustration is furnished by Nassau Senior's treatise on "Political Economy."[1] "The premises of the political economist," says this writer, "consist of a very few general propositions, the result of observation or consciousness, and scarcely requiring proof, or even formal statement, which almost every man, as soon as he hears them, admits as familiar to his thoughts, or at least as included in his previous knowledge; and his inferences are nearly as general, and, if he has reasoned correctly, as certain as his premises." Elsewhere Senior speaks of the "undue importance which many economists have ascribed to the collection of facts."

The term inductive, on the contrary, is to be applied to those writers who do not start out with *all* their premises ready made, but who include the induction of premises within the scope of their science and proceed to use these premises deduc-

[1] 6th Ed., London, 1872.

tively. The inductive political economist, for example, gathers together particular facts relating to the effects of the division of labor upon production, or facts respecting government and private banks; and observing particulars in which these facts agree among themselves, separates out these similars and forms what we call a generalization. This serves him in future for a major premise in economic reasoning. The inductive political economist compares his conclusions with external facts, not simply for the sake of testing the accuracy of his reasoning, but also in order to ascertain whether the generalization itself was made on sufficient grounds. It is difficult to ascribe any other meaning to induction which is not obviously absurd. Nothing, indeed, could be more ridiculous than to gather economic facts at hap-hazard and to catalogue them as gathered. If induction means that, then what Cairnes writes of the inductive economist would be indisputable: "He may reason till the crack of doom without arriving at any conclusion of the slightest value."[1] But no one ever supposed induction to mean such sheer nonsense. The inductive economist starts with some hypothesis to serve as a guiding thread in the bewildering labyrinth of facts. He generalizes in order to observe, but likewise observes in order to generalize.

## II.—The Old School.

Leaving out of consideration Adam Smith, to whose inspirations all economists trace their origin, the leading representatives of English political economy are Malthus, Ricardo, Senior, and the two Mills, James and his son John Stuart. These writers contributed various parts of that economic system, which the epigones in political economy contemplate with awe and admiration as something not to be questioned, and which reigned almost supreme in England and in literary and

[1] "Character and Logical Method of Political Economy."—2nd. ed., London 1875, p. 65.

learned circles in all Christendom until within twenty or thirty years. It acquired the reputation of orthodoxy, and to be a heretic in political economy became worse than to be an apostate in religion; and even to-day in France this entirely unscientific conception of orthodoxy plays such a rôle that it is considered complimentary to apply the predicate orthodox to a distinguished economist.

These men generally opened their text-books with a definition of political economy. Their definitions differed in a few minor respects, but finally attained a form which was commonly accepted; and it may be well to preface the more detailed account of their system with this definition. It reads as follows: "Political economy is the science which treats of the production, distribution and exchange of wealth." This definition furnishes the most general view of their political economy.

The teachings of this school were comparatively simple, especially as found in the systematized expositions of their adherents, who followed after them, and at a very long distance behind them. Their doctrines were chiefly and considered as a whole, deductive and flowed naturally from a few hypotheses concerning human nature and the external physical world; and these hypotheses served as the ultimate premises of economic science. That universal self-interest, or, as the epigones coarsely and with exaggeration styled it, universal selfishness,[1] was the animating and overwhelmingly preponderating cause of economic phenomena, constituted the leading assumption of this English or Manchester school of political economy. "The Wealth of Nations," says Buckle, one of the Manchester men, "is entirely deductive, since in it Smith generalizes the laws of wealth, not from the phenomena of wealth, nor from statistical statements; from the phenomena of selfishness." While it is possible to maintain, with considerable show

[1] That it was a decided error to identify self-interest and selfishness is pointed out further on in this monograph.

of plausibility, that this is far from being a correct interpretation of Adam Smith, it most undoubtedly represents teachings of followers, who pushed their tendencies in method and doctrine to an extreme. Smith, indeed, made use of history and statistics, but this was not done by Ricardo, his most distinguished disciple, and the corypheus of English classical political economy. The latter opens his work on "Political Economy and Taxation" with a discussion of "Value." In all that he says concerning it—and that means twenty-five large octavo pages—he does not adduce one single illustration from actual life. Not even one historical or statistical fact is brought forward to support his conclusions. No mention is made of a single event which ever occurred. It is really astounding when one thinks of it. The whole discourse is hypothetical. "Suppose now a machine," writes Ricardo in one place, "which could, in any particular trade, be employed to do the work of one hundred men for a year, and that it would last only for one year. Suppose, too, the machine to cost £5,000, and the wages annually paid to one hundred men to be £5,000, it is evident that it would be a matter of indifference to the manufacturer whether he bought the machine or employed the men. But suppose labor to rise and consequently the wages of one hundred men for a year to amount to £5,500, it is obvious the manufacturer would now no longer hesitate; it would be his interest to buy the machine, and get his work done for £5,000. But will not the machine rise in price? . . . . It would rise in price, if there were no stock employed in its construction. . . . . If, for example,"—and, in this strain, which sufficiently illustrates his style and method, Ricardo continues indefinitely. Inside of two pages, he introduces no fewer than thirteen distinct suppositions, all of them purely imaginary.

A second leading hypothesis of this older school has been variously expressed. In its most objectionable form it asserted that a love of ease and aversion to exertion, was a

universal characteristic of mankind.[1] In its least objectionable form it affirmed the universality of the desire to attain a maximum of effect with a minimum of sacrifice; or, as it is still better expressed by Cairnes, "the intellectual power of judging of the efficacy of means to an end, along with the inclination to reach our ends by the easiest and shortest means." These two statements differ considerably; in fact to such an extent that it is doubtful whether they ought to be regarded as expressions of essentially similar proportions. As first stated the principle would antagonize the desire for wealth, one of the manifestations of selfishness; in the second form it simply means that no needless exertion will be expended in attaining an end. More wealth is balanced against additional sacrifice of ease and wealth.

A further hypothesis was the absolute lack of friction in economic movements. Not only do capital and labor move with perfect ease from place to place and from employment to employment, but this, it was implicitly maintained, is accomplished without the slightest loss. The silk manufacturer diverts his capital into another employment like the construction of locomotives with precisely the same facility with which he turns his family carriage horse from an avenue into a cross street, while the Manchester laborer on a moment's warning finds a suitable purchaser for his immovable effects and without expense or loss of time transfers himself to London where employment is at once offered him at the rate of wages there current. Equality of profits and equality of wages flowed naturally from these assumptions.

An additional common premise of the older political economy was this proposition: The beneficent powers of nature or the "free play of natural forces" arrange things so that the

[1] In his article entitled "Recent Attacks on Political Economy," (*Contemporary Review*, Nov., 1878), Mr. Lowe (Lord Sherbrooke) declares that "wealth and ease" are the only two premises of political economy and says that the whole science is based on "the absolute supremacy of the desire of wealth and aversion from labor" (p. 864).

best good of all is attained by the unrestrained action of self-interest. This was taken from Adam Smith, who often gave expression to this view.[1] A hundred quotations similar to this might be adduced: "Every individual is continually exerting himself to find out the most advantageous employment for whatever capital he can command. It is his own advantage, indeed, and not that of the society which he has in view. But the study of his own advantage *naturally* or rather *necessarily* leads him to prefer that employment which is most advantageous to the society."

The perfectly logical conclusion drawn from this hypothesis, was that government should abstain from all interference in industrial life. *Laissez-faire, laissez-passer*—let things alone, let them take care of themselves,—was the oft-repeated maxim of *à priori* economists.

This was a part of a general conception of the naturalness of things as they existed in modern industrial society, a conception which may be traced back through French eighteenth century philosophy to the theory of Roman jurisprudence, and which is thus described by an unquestioning adherent.[2] This industrial world "is governed by natural laws, admirable laws, in many respects inflexible, which it is necessary to know and respect. . . . . These laws are superior to man. Respect this providential order; let alone the work of God. . . . . This maxim, *laissez-faire, laissez-passer*, is one of the most beautiful, one of the most profoundly philosophical and at the same time one of the most just which have been brought forward in a long time. It carries with it the revelation of

[1] In other parts of his work, Adam Smith gives expression to views, whose tendencies are quite different. The general bearing of the Wealth of Nations is, undoubtedly, optimistic, though pessimists can find support in places. The "School of Harmony" was a later product, due more to Henry C. Carey than to anybody else. It is now generally recognized that a great deal of what Bastiat put forth as original was taken from Carey.

[2] Ch. Coquelin, in his article on Économie Politique, published in the Dictionnaire d'Économie Politique.

our science and announces the presence of those natural laws, which it is the mission of the science to study. At the same time this maxim is the first fruit of this revelation."

Thus it is that the dignity of natural law is conferred upon all these hypotheses by the classic political economy of the past. They hold good, it is upheld, for all places and for all periods of time, and the same universal character must attach to the deductions from them, consequently, to the entire science of political economy.

Has not man, it was further argued in proof of this, ever been actuated by self-interest? Has he not ever been obliged to labor in order to satisfy the wants of his nature? Was there ever a time he did not need food and shelter? Does not the very instinct of childhood set apart certain things like toy-horses, wagons, and even a corner of a room or of a sofa, and attribute to them a peculiar quality in pronouncing them "mine"? And can we go back to a period of time when this unchangeable human nature of ours in its immutable desire of ownership of the essentials of well-being did not lead to the institution we call private property? Is not the multiplication of the human species a universal law? Is Nature in this respect one whit different in France from what she is in Germany or England, or in Ethiopia from what she is in the United States? Or is it possible to discover a divergence between her processes among the Egyptians four thousand years ago and those which to-day obtain in Spain or Portugal? Is not this competition, which we see going on about us every day, an eternal law of Nature? Is it not a necessary and inevitable consequence of the fundamental fact of limitation of objects suitable to the satisfaction of our desires and the universal principle of self-interest, which prompts each individual to satisfy, in the most complete manner, his own desires,—in other words, to obtain more than his proportional share of the limited store of goods? Is not wealth itself an object "distinct, necessary, permanent and universal," such an object as fits it to be the subject of scien-

tific investigation? Are not these words of Courcelle Senueil a correct description of wealth? "We can discover neither group of men nor individual able to live without making use of a greater or less amount of wealth, without possessing a power more or less extended over the exterior world. This is true in all times and in all latitudes. In whatsoever condition we consider man we find him besieged with wants which he must satisfy under pain of death and which he can only satisfy by means of objects whose possession constitutes his wealth."

Political economy can then have no connection with government. It treats of the universal desire of wealth, an object "distinct, necessary, permanent, and universal," the natural causes and processes of its production and distribution. It can likewise then have as little connection with nationality as physics, and "there is no more a French, or German, or American political economy or political science than there is a French, or German, or American science of astronomy or chemistry."[1]

To put it positively, the political economy of the past was a pure science, which was considered apart from policy, which as a changeable, fluctuating factor, introduced a disturbing element into what was otherwise immutable. "Until economical questions," writes an adherent of this method in *The Nation*, "are considered and answered from a purely scientific standpoint without respect to any considerations of policy, it is vain to hope for any decided advance in our means of judging them." That is to say, political economy is a science in an older and narrower sense which limits science to the discovery of truth without regard to its practical applications.[2]

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[1] Preface to the Cyclopædia of Political Science, Political Economy and United States History.

[2] An interpretation of science, formerly much commoner than to-day, is that given by Mr. Robert Lowe in his article on the Recent Attacks on Political Economy, in the *Nineteenth Century* for November, 1878. He finds the crucial test of science in the power of prediction. The

Indeed one writer, M. Coquelin,[1] has gone so far as to say that political economy as a science—and as such he maintains it should be cultivated—has no purpose. "Science does not counsel, order, or prescribe; it confines itself to observation and explanation."

It must not be supposed that this entire statement of economic premises would find acceptance with any one writer of the older school, nor that there are no differences of opinion among those thus classed together. This is far from the true state of the case. There are numerous subdivisions, or sects, in this older school, and sometimes these minor divisions are called schools, though less properly; for a school of thought refers to the foundation-principles of a science. Nevertheless wide differences are found among the older economists. Some, like Bastiat, accept the doctrine of harmony of interests, to which reference has been made, and carry it to its logical outcome, while others, like Ricardo, develop strong pessimistic tendencies. But what has been said characterizes the drift of one main stream of economic thought.

Nassau Senior has summed up, under four heads, the premises of political economy, as he understands them, and it may be well to quote his statement in this place.

The propositions alluded to are these:

"I. That every man desires to obtain additional wealth with as little sacrifice as possible.

"II. That the population of the world, or, in other words, the number of persons inhabiting it, is limited only by moral or physical evil, or by a fear of a deficiency of those articles of wealth which the habits of the individuals of each class of its inhabitants lead them to require.

"III. That the powers of labor, and of the other instruments which produce wealth, may be indefinitely increased

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writer denies that science means more than systematized knowledge. The power of prediction which any branch of knowledge may convey with it, can be known only when the science is completed.

[1] *Vide* Art., Économie Politique in the Dictionnaire d'Économie Politique.

by using their products as the means of further production."

This third proposition simply asserts the productivity of what is ordinarily called capital.

"IV. That agricultural skill remaining the same, additional labor employed on the land within a given district produces, in general, a less proportionate return, or, in other words, that, though with every increase of the labor bestowed, the aggregate return is increased, the increase of the return is not in proportion to the increase of the labor."

This fourth proposition is commonly known as the law of diminishing returns, and as such is familiar to every political economist.

## III.—The Attractions of Economic Orthodoxy.

The attractions of these doctrines were numerous and evident. For the confusing, the bewildering complexity of the economic phenomena surrounding us, they substituted an enticing unity and an alluring simplicity. They appealed irresistibly to the vanity of the average man, as they provided him with a few easily managed formulas, which enabled him to solve all social problems at a moment's notice, and at any time to point out the only true and correct policy for all governments, whether in the present or the past, whether in Europe or Asia, Africa or America. It required, indeed, but a few hours' study to make of the village schoolmaster both a statesman and a political economist. Neither high attainments nor previous study and investigation were required even in a professor of the science. "Although desirable that the instructor should be familiar with the subject himself," writes Mr. Amasa Walker in the preface to his "Science of Wealth," "it is by no means indispensable. With a well-arranged text-book in the hands of both teacher and pupil, with suitable effort on the part of the former and attention on the part of the latter, the study may be profitably pursued.

We have known many instances where this has been done in colleges and other institutions, highly to the satisfaction and advantage of all parties concerned."

Ordinarily the search for new truth is considered a fascination. As the old proverb has it, it is the chase and not the game which attracts the hunter; and scientists generally find their specialties interesting, in proportion as there remains truth to be discovered and in proportion to their estimate of the probability that they will be successful in the pursuit of this undiscovered truth. But political economists of the past have aspired to add a new attraction to their study in pronouncing it perfect and complete, or at any rate very nearly so. Their pride in the possession of final truth has stifled their curiosity; and clothed upon with the armor of infallibility they have constituted themselves popes in the domain of science and hurled their anathemas at dissenters.

Now that everything in political economy seems unsettled it is curious to read the expressions of those who, twenty, thirty and forty years ago, thought this branch of knowledge full grown and devoid of blemish.

Nearly sixty years ago M'Culloch wrote these words in his "Principles of Political Economy:" "Political Economy has not been exempted from the common fate of the other sciences. None of them has been instantaneously carried to perfection; more or less of error has always insinuated itself into the speculations of their earliest cultivators. But the errors with which political economy was formerly infected have now nearly disappeared; and a very few observations will suffice to show that it really admits of as much certainty in its conclusions as any science founded on fact and experiment can by any possibility do."[1]

In a still earlier work by Colonel Torrens, the following words are to be found: "In the progress of the human mind, a period of controversy amongst the cultivators of any branch

[1] Political Economy, Part I.

of science must necessarily precede the period of unanimity. With respect to political economy, the period of controversy is passing away, and that of unanimity rapidly approaching. Twenty years hence there will scarcely exist a doubt respecting any of its fundamental principles."[1]

And more than twenty years later, even John Stuart Mill wrote as follows respecting the laws of value:[2] "Happily there is nothing in the laws of value which remains for the present or any future writer to clear up; the theory of the subject is complete; the only difficulty to be overcome is that of so stating it as to solve by anticipation the chief perplexities which occur in applying it."

Alas for the vanity of human prophecy! The controversial matter which has been written on value since John Stuart Mill penned those words would, it is safe to affirm, fill many a large octavo volume. And even now economic views respecting value are far from harmonious.

Another attractive feature of this economic system was the favor it gained for its adherents with existing powers in state and society. No exertion, no sacrifice, was required on their part to alleviate the sufferings of the lower classes. They were simply to let them alone and go their way, convinced that they were most truly benefiting others in pursuing their own egotistic designs. The capital of the country was divided according to fixed and unalterable laws into two parts: the one designed for laborers, and called the wage-fund; the other destined for the capitalists, and called profits. So far, nothing was to be done, because nothing could be done. It was impossible to contend against nature. If you should thrust her out with a pitchfork, she would return. Moreover, competition distributed the two portions of capital justly among the members of the classes for whom they were

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[1] Quoted by Cairnes from Torrens's "Essay on the Production of Wealth." 1821.

[2] Political Economy, Book III, Chapter I.

designed: the wage-fund equally and equitably among the laborers, the profits equally and equitably among the capitalists. Even Cairnes thinks the decrees "ordinarily given to the world in the name of political economy," amount in the main "to a handsome ratification of the existing form of society as approximately perfect."[1] Such bright, rose-colored views so influenced some that they began to talk about the "so-called poor man," and at times appeared to think an economic millennium about to dawn upon us. It was only necessary to pull down a few more barriers and allow still freer play to natural forces.

## IV.—Merits of the Old School.

Whatever views we may entertain of the correctness of the doctrines described, we should not fail to recognize the merits of the orthodox English school of political economy—the classical political economy. It separated the phenomena of wealth from other social phenomena for special and separate study. It called attention to their importance in national life. It convinced people that it was folly to attempt to understand society without examining and investigating the conditions, the processes, and the consequences of the production and distribution of economic goods. Even if it was an error to attempt to study these economic phenomena by themselves, entirely apart from law and other social institutions, the effort was of importance as bringing out this very impossibility. If it was an error to assume simplicity of economic phenomena, the error itself led to an investigation of them, from which people might have been deterred, if their complexity and difficulty had been sufficiently realized.

Again, the construction of a deductive science of human actions even upon insufficient premises was a labor of high merit and required minds of the first order. The intelligent

[1] Character and Logical Method of Political Economy, p. 25.

perusal of Ricardo's Political Economy is more difficult to the average college student than the mastery of his Euclid. Premise follows premise and conclusion conclusion in an unbroken logical chain, extending through the entire work; and the loss of any link in the argument at once renders the text incomprehensible. The study of this author's writings is undoubtedly excellent mental discipline.

Further, the present political economy in all parts of the world grew out of the classical political economy, and the former cannot be comprehended until the latter has been mastered. It was indeed efforts to master, extend and perfect the older school, as well as other causes like later developments of industrial life, which gradually led to the most recent economic investigations. Nor does any one now doubt the continued and all-pervading—even if not all-controlling—influence of those motive powers, which furnished Ricardo, Mill and Senior with their major premises; but this fact was not understood before the coryphei of the older political economy elucidated it, and they deserve great credit for what may be fairly termed their discoveries. It was, for example, a service of no mean order, to point out all the ramifications of self-interest in economic life, to set in order the phenomena explained by this principle, and to show how it prompts men to the most diverse deeds, which, undertaken without a view to the welfare of others, nevertheless redound to the common good. And it must be confessed that no single principles have been discovered by the German school, which throw such a flood of light on the multifarious phenomena of economic life as do, for example, the Ricardian theory of rent, and the Malthusian doctrine of population.

The services rendered by economists of this school in practical life were not less important. They were instrumental in tearing down institutions, which, having outlived their day and usefulness, were simply obstructions to the development of national economic life. This happened in many lands, but it is necessary to enumerate only a few examples. The Baron

vom Stein was the man of all others who ushered in the era of modern political institutions in Prussia. He began his career as minister by demolition. As Seeley, in his "Life and Times of Stein," admits with more good sense than usually characterizes English writers on free trade and protection, international free trade was not to be contemplated in the countries of continental Europe. It was only to be thought of in countries like England — "shielded comparatively from war, and depending upon foreign countries for its wealth." But internal free trade, *i. e.*, free trade within the nation itself, was both practicable and advisable. Stein accordingly abolished, early in the century, the internal customs, which had proved a great hindrance to trade and industry, while yielding the state the insignificant sum of some $140,000 per annum (Part I. Chap. V. p. 100 [1]). Restrictions on the transfer of land and serfdom were institutions which stood in the way of a desirable national development, and both were abolished by Stein's celebrated Emancipation Edict of 1807 (Part III. Chap. IV.). While he was influenced considerably by Turgot's writings and practical activity as governor of a province and Minister of Finance, he expressly acknowledges that he studied Adam Smith's "Wealth of Nations," and was guided by it in his policy (Part I. Chap. V. p. 99). I have mentioned only three cases where English political economy influenced German national life. These would be important enough to attract attention if they were the only instances, whereas its influence has not ceased at the present time. There still exists in Germany a society of men called the Economic Congress, founded in 1858. They represent the extreme economic views of the old school, and endeavor to bring legislation into harmony with their ideas; and their efforts in the past have been by no means altogether fruitless.

It is less necessary to describe the practical effects of the orthodox political economy in England. It began by influ-

[1] Seeley's Life and Times of Stein." Boston. 1879.

encing the younger Pitt, and reached its culmination, perhaps, in the introduction of international free trade under Cobden and Bright. It has now been explained what the older English political economy was, and what it accomplished both for science and practical life. It is next necessary to show how it broke down both as a scientific system and as a political guide, and to describe the origin, growth, and character of the modern school of political economy.

## V.—The Decline and Fall of the Old School.

It must be noticed first that the whole spirit of its practical activity was negative. It was powerful to tear down, but it did not even make an attempt to build up. Like the anarchists, it assumed the existence in nature apart from man's will, of a sufficient constructive power. In many respects it resembled the French revolution, and it was hailed with joy for the same reason. They both represented the negative side of a great reform, and as such answered the needs of the latter part of the eighteenth and the earlier part of the nineteenth centuries. The ground had to be cleared away to make room for new formations; and the system of political economy described could not endure permanently because in its practical workings it was *only* negative. It had nothing to say when industrial progress and new economic formations brought to the front fresh problems for solution. It was obliged to give way to a school which should attempt the positive work of reconstruction. It failed first as a guide in industrial life, and it is this failure which must now occupy our attention.

Let us consider at the outset that phrase, which contains the quintessence of its advice to the statesman and which has been lauded as the revelation of our science as well as of the providential and inflexible order of the industrial world. The phrase referred to is, of course, *laissez-faire, laissez-passer*. It never held at any time in any country, and no maxim ever made a more complete fiasco when the attempt was seriously

made to apply it in the state. The truth is, the stern necessities of political life compelled statesmen to violate it in England itself, even when proclaiming it with their lips. This was first done apologetically, and each interference was regarded by the "school" as an exception to the rule; but it finally began to look as if it were all exception and no rule. Interference was found necessary in every time of distress, as during our late civil war, when government borrowed money for public works to give employment to the Lancashire operatives, at the time of the cotton famine. Every reform in the social and economic institutions of Great Britain has been accomplished only by the direct, active interference of government in economic affairs. When Gladstone began his work of conciliating Ireland in 1869, he found it expedient to grant loans of public money to occupiers who wished to improve their holdings, and to proprietors to reclaim waste lands or to make roads and erect buildings, enabling them thereby to employ labor. In 1880 the government of Ireland again decided to alleviate the sufferings of the Irish, by making an advance of £250,000 out of the surplus of the church funds, for public works of various kinds, in order to provide employment for those needing it. The recent Irish acts interfering between tenant and landlord in the matter of rent, and offering the assistance of the state to tenants in arrears, violate all the principles of *laissez-faire* economists, and are nevertheless applauded by the wisest and best men of all lands. *Laissez-faire* was tried in the early part of this century in English factories, with results ruinous to the morality of women and destructive of the health of children. Robert Owen, himself a large and successful manufacturer, declared that he had seen American slavery, and though he considered it bad and unwise, he regarded the white slavery in the manufactories of England as far worse. Children were then—that is, about 1820—employed in cotton, wool, silk, and flax establishments at six and even five years of age. The time of labor was not limited by law, and was generally fourteen, sometimes fifteen,

and in the case of the most avaricious employers even sixteen hours a day; and this in mills sometimes heated to such a degree as to be injurious to health. I know of no sadder reading and no more heart-rending tales than appear in the government reports on the condition of the laboring classes previous to state interference in their behalf in England. The moral and physical degradation of large classes was shown, by undisputed testimony, to be such as to put to shame any country calling itself civilized and Christian. It could scarcely be surpassed, even if paralleled, by the records of savage and heathen nations.

Government began to interfere actively in behalf of the laborers in 1833, and since 1848 has largely extended its protection. The time of labor has been limited, and the employment of women and children regulated by a Factory Act, which is regarded as a triumph of civilization; if the "*London Times*," and Mackenzie's work, "*The Nineteenth Century*," can be trusted, investigations show that the act has proved an "unmingled good." And Stanley Jevons uses this still stronger language: "This Consolidation Act is one of the brightest achievements of legislation in this or any other country."[1] Sanitary legislation has improved the dwellings, health, and morality of the poorer city population. Government spent, *e. g.*, some $7,000,000 in repairing and rebuilding three thousand tenements in Glasgow, with such good effect that the death-rate fell from fifty-four to twenty-nine per thousand, and crime diminished proportionately.

After *laissez-faire* had been allowed centuries to test its practical effects in educating the masses and had left them in continued ignorance, government began to take the matter in hand. It appropriated £20,000 annually for the education of the poor from about 1830 to 1839, when this pittance was

[1] "The State in Relation to Labor." London, 1882, p. 52. The Act referred to is the Factory and Workshop Act of 1878, (41 and 42 Vict. cap. 16), into which previous legislation relating to labor was consolidated.

increased to £30,000. The work has gone on until in the present decade the final triumph of universal and compulsory education has been assured. Hon. J. M. Curry, agent of the Peabody Fund, recently made the following emphatic statement: "I am only stating a truism when I say there is not a single instance in all educational history where there has been anything approximating universal education unless that education has been furnished by government." England has had no experience which can prove Dr. Curry's assertion an over-statement.

In our own country it is curious to note how the advocates of *laissez-faire* abandon position after position. First, tenements are exempted from what is considered the general law, because experience has shown that "nothing short of compulsion will purify our tenement districts." Then it is discovered that the ordinary laws of supply and demand are not preserving our forests; consequently, that individual and general interests do not harmonize. The inadequate action of competition in regulating and controlling great corporations gives another excuse for governmental interference. "Corners" in necessaries of life call for a further abandonment of the *laissez-faire* dogma, as does also the success attendant on the establishment of government fisheries. The list might be extended almost *ad libitum*, and every day adds to it. Thus has *laissez-faire*, one of the strongholds of past political economy, been definitely abandoned. Justin McCarthy has described, as one of the most curious phenomena of these later times, "the reaction that has apparently taken place towards that system of paternal government which Macaulay detested, and which not long ago the Manchester School seemed in good hopes of being able to supersede by the virtue of individual action, private enterprise, and voluntary benevolence," (Chap. LIV). Legislation is now based to greater extent on the principle of humanity. Women and children are protected, not only against the greed of employers, but even against themselves. Individual freedom is limited both for

individual good and the general welfare. And as McCarthy has said in another chapter (LXVII.) of his "History of our Own Times": "We are perhaps at the beginning of a movement of legislation which is about to try to the very utmost that right of state interference with individual action which at one time it was the object of most of our legislators to reduce to its very narrowest proportions."

A second practical maxim was deduced from the doctrine of the identity of interests of laborer and labor-giver, which Bastiat, the leader of the optimists, expresses in these words:

"Cease, capitalists and workmen, to regard each other with an eye of envy and distrust. Shut your ears against those absurd declamations which proceed from ignorance and presumption, which, under the pretence of insuring future prosperity, blow the flame of present discord. Be assured that your interests are one and identical; that they are indissolubly knit together; that they tend together toward the realization of the public good; that the toils of the present generation mingle with the labors of generations which are past; that all who coöperate in the work of production receive their share of the produce; and that the most ingenious and equitable distribution is effected among you by the wise laws of Providence."

Bastiat preaches many little sermons like the one just given, but it is to be feared that their oily properties, if tried, will never reduce the storms of passion to a calm, nor render the riot-act forever an antiquated institution.

If all that Bastiat and his confrères write only held in real life, the solution of the Social Problem would indeed be an easy task. Business men know, however, that the share of the produce of labor and capital received by labor diminishes by so much the profits of capital, and that, *ceteris paribus*,[1]

[1] The two words *ceteris paribus* mean a great deal, but the scope of the present essay does not allow the writer to enter more at length upon the relations between profits and wages.

the larger the proportion of profits received by capital, the smaller the proportion received by labor. That there is an entire harmony of interests between the different classes of society, is at complete variance with the teachings of modern science, and "is at best a dream of human happiness as it presents itself to a millionaire."[1] It is possible to reconcile the different classes of society only by a higher moral development. The element of self-sacrifice must yet play a more important rôle in business transactions, or peace and good-will can never reign on earth.

Still another favorite notion of the older economists, and one which leads to great hardship in real life, is that taxes are shifted so as to be divided fairly between different employments in which capital is engaged. However convinced any one might be theoretically of his ability to shift his own tax upon his neighbor, he would undoubtedly prefer practically to have it laid in the first place upon the neighbor. "Possession is nine points of the law." This also applies, in a negative sense, to the possession of an exemption. If landlords are taxed directly, they must first pay the money out of their pockets; at first, the tenants are free, and the whole burden of transferring the tax to them rests on the landlords. But as the tax is imposed in all cases at the same time, there is a united effort to resist all along the line, and it is almost certain that the landlords will be obliged to bear at least a part of it. Besides this, in the case of long leases they bear the entire burden for years, while the lessees become accustomed to the exemption, and expect it. It is problematical whether a person ever gets a tax back after he has once paid it. Taxes ought never to be imposed on the poorer classes, and when avoidable upon no class of persons, with the idea that they will eventually free themselves from them.[2] To

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[1] Gustav Cohn, on "Political Economy in Germany." *Fortnightly Review*, Sept. 1, 1873.

[2] This does not involve a wholesale condemnation of indirect taxes.

speak of taxation finally righting itself, or of population in the end accommodating itself to the demand for it, and to follow this out practically, would be like the conduct of a general who should choose a busy street in a great capital as a place for his soldiers to practice shooting, and set them to work at once. Some one remonstrates: "But, General, your soldiers will kill people riding and walking in the street." "Very likely," replies he; "at first, some may be killed and some wounded, but in the course of time these matters regulate themselves. People will finally learn to avoid this street. Shoot away, boys!" No, taxes are not paid out of the "hypotheses or abstractions" of the economist.

It is now time to pass over to the more exclusively theoretical side of our argument and inquire into the correctness and sufficiency of the premises of deductive political economy; and the test must be found in the correspondence or non-correspondence of the conclusions logically flowing from the premises with the facts of economic life, for the conclusions must be perfect if the premises are in every respect adequate.

It is natural to consider first the leading premise of the school in question; namely, the supposition that self-interest is the chief force of economic life and that it is, compared with all others, so overwhelmingly preponderating, that the latter are to be considered only incidentally and by way of correction. This is a fair statement, for it gives the *à priori* economists credit for the acknowledgement of modifying causes, or "subordinate causes," as they are termed by Cairnes, who has put the principles of deductive political economy in their most acceptable form.[1] The question, then, is this: Does self-

[1] This is more than Lord Sherbrooke (Mr. Lowe) claims. In the article in the *Nineteenth Century*, already referred to (Nov., 1878), he says: "In love, or war, or politics, or religion, or morals, it is impossible to foretell how mankind will act; and therefore on these subjects it is impossible to reason deductively. But once place a man's ear within the ring of pounds, shillings, and pence, and his conduct can be counted on to the greatest nicety. I do not, of course, mean that everybody really acts alike

interest play a rôle in economic life, which corresponds to the part of a great natural law, like the attraction of gravitation, everywhere present, everywhere acting with a force to be calculated upon, although subjected to the modifications of subordinate causes? Does it play a rôle in economic life which even approximates to that of a great natural physical law, which sets in order and explains a whole world of phenomena?

It is well to begin this inquiry by the examination of historical phenomena. This will show us that there are entire great classes of facts, which are quite different from what the statements of this law by *à priori* economists would lead us to expect. Self-interest, in the first place, in the sense in which the word is here used, as equivalent to the desire of wealth, is often not the force which explains the movements of great masses. That force is often national honor, devotion to a principle, an unselfish desire to better one's kind. Let us take examples from our own history. Twice have we Americans disappointed in marked manner those who hoped that our national conduct would be governed by our desire of wealth, or the almighty dollar. Early in the struggle between America and England, the British Parliament passed the act for changing the government of Massachusetts, and for closing the port of Boston, which took effect June 1, 1774. This gave the other seaports, and especially Salem, a rare opportunity to take possession of Boston's trade. Did they improve it? We will let Webster reply. "Nothing sheds more honor on our early history," says he, in his speech at the laying of the corner-stone of the Bunker Hill Monument, "and nothing better shows how little the feelings and sentiments of the colonies were known or regarded in England, than the impression which these measures everywhere pro-

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where money or money's worth is concerned, but that the deviations from a line of conduct which can be foreseen and predicted are so slight that they may practically be considered as non-existent. . . . . They may be neglected without perceptible error."—What becomes of the history of Sparta!

duced in America. It had been anticipated that while the other colonies would be terrified by the severity of the punishment inflicted on Massachusetts, the other seaports would be governed by a mere spirit of gain; and that as Boston was now cut off from all commerce, the unexpected advantage which this blow on her was calculated to confer on other towns would be greedily enjoyed. How little they knew of the depth and the strength and the intenseness of that feeling of resistance to illegal acts of power which possessed the whole American people! . . . . The temptation to profit by the punishment of Boston was strongest to our neighbors of Salem. Yet Salem was precisely the place where this miserable proffer was spurned in a tone of the most lofty self-respect and the most indignant patriotism."

When our civil war broke out, our enemies declared that it would be ruinous to our prosperity; if it were continued, grass would grow in the streets of New York; and the Yankees, ever greedy of wealth, would lay down their arms rather than suffer such material losses as this would involve. But the American people again showed their detractors that there was that which they valued more highly than commercial gain.

But let us take up another great class of economic phenomena, those comprised under the term "wages." Equality of wages is a perfectly logical deduction from the premises of *à priori* economy and moreover one which is constantly recurring in the works of economists. It is true that Cairnes speaks of "disturbing causes" and ascribes a certain hypothetic character to economic conclusions, but if equality of wages means anything of value at all, it must denote some approximation in real life to the absolute equality called for. What are the facts of the case?

It is idle to ignore the influence of the desire of wealth as manifested in competition in regulating wages. Our experience of human nature, both of our own and that of others, and our observation of what happens daily on every side of

us, demonstrate conclusively that the desire of wealth as a means of obtaining well-being produces a certain tendency towards equality of wages. But this experience likewise teaches us that it does not equalize them even in the same employment in the same country, and does not reduce them to the lowest possible point in a great number—*possibly* the majority—of cases. While carpenters are receiving $2.50 in one place, they receive $3 a day in another locality not a day's journey distant. Farm laborers in England, in 1873, received wages which varied from an average of 12*s.* a week, in the southern counties, to an average of 18*s.* a week, in the northern—a difference of fifty per cent.;[1] and this difference was no temporary phenomenon, but appears to have lasted for years.

The difference in special localities in the north (Yorkshire) and south (Dorsetshire) of England was still greater, amounting to between two and three hundred per cent. In his Theory of Political Economy, Jevons, indeed, speaks of forty different rates of wages in England, and in one place uses these words: "I altogether question the existence of any such rate" (*i. e.*, natural rate of wages, such as Ricardo assumed). "The wages of working men in this kingdom vary, perhaps, from ten shillings a week up to forty shillings or more; the minimum in part of the country is not the minimum in another."[2]

Look hap-hazard where one will, one finds that unequal wages for similar services are not only paid in places not remote from one another, but even in the same city or town. Appleton's Annual Cyclopædia for 1877, for example, gives the following table of wages paid to engineers and firemen at the time of the celebrated strike in 1877:

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[1] "The Movement of Agricultural Wages in England," Cliffe Leslie in *Fortnightly Review*, June 1, 1874. Reprinted in his "Essays in Moral and Political Philosophy."

[2] Pp. 291–292.

| *Line of Railroad.* | *Daily Wages.* | | *Monthly Wages.* | |
|---|---|---|---|---|
| | Engineers. | Firemen. | Engineers. | Firemen. |
| N. Y. Central, - - - - - | $3 15 | $1 58 | $81 90 | $41 08 |
| Erie, - - - - - - - - - | 3 60 | 2 13 | 97 12 | 58 12 |
| Pennsylvania (longer trips—passenger), | 3 15 | 1 80 | 92 78 | 51 23 |
| Pennsylvania (shorter trips—freight), | 2 34 | 1 65 | 83 66 | 48 03 |
| Illinois Central (passenger), - - | ..... | ..... | 115 00 | 57 00 |
| " " (freight), - - | ..... | ..... | 100 00 | 54 00 |
| Burlington and Quincy, - - - | ..... | 2 00 | 81 00 | 52 00 |
| Lake Shore, - - - - - | 2 93 | 1 47 | 94 64 | 47 32 |

Any reader who still believes that, somehow or other, the theory of equal wages may be true, should consult a document like the Annual Report of the Massachusetts Bureau of Statistics of Labor, for 1883, and ascertain the number of rates of wages paid to unskilled labor in a single state. As the writer glances down one page of the report[1] he finds that the daily wages of ordinary laborers engaged in the manufacture of boots and shoes varied from seventy-five cents to two dollars, seven different rates being mentioned, differing from one another by almost two hundred per cent. And yet a comparison is made between the accuracy of political economy and physics, where a difference which is the thousandth part of one per cent. is noted! Is it not absurd to speak about an equality where such differences exist?

The truth is, other principles than the one of desire of wealth act so powerfully, that it is folly to consider that alone with the expectation of establishing thereby a valuable political economy. In the employment of laborers and servants, the most diverse motives come into play and the desire of wealth is only one of these; others are—generosity, love of mankind, a desire to see those about one happy, pride, sentiment, etc. When a gentleman hires a boy to carry a parcel, he does not haggle with him for five cents; pride restrains him if nothing else. Employers could reduce wages, if they would, in cases not by any means rare. The following two

[1] P. 186.

cases, which happen to occur to the writer, are given simply as illustrations. A gentleman in New York pays his coachman $50 a month, under the circumstances a high remuneration, and he has no better reason than the purely sentimental one that his deceased father, to whom this servant had been kind, had paid him the same amount. The wealthy proprietor of a widely circulated journal is said to have refused to reduce the wages of his compositors, although the Typographical Union had approved a reduction. He said: "My business is prosperous; why should not my men share in my prosperity?" Friction in economic life is great, and love of home and home surroundings are more potent factors than the desire for wealth.

Professor Cairnes admits an international divergence of profits and wages, sometimes amounting to three and four hundred per cent., which he explains by the various ties which hold one to one's country. But this and similar admissions find no natural place in the old theory of self-interest. It is one of the many self-contradictions in which its adherents inevitably become involved. A philosophical and logical inquiry into the nature of self-interest will make this plain and will clear up one of the fundamental facts of economic life.

It is to be remarked then in the first place that in political economy self-interest may be regarded as a *terminus technicus*. It is in economic life what self-love is in our larger and all-inclusive life. Now self-love is not an evil. It is a good and its exercise is commanded. He who is recognized as first among moral teachers, placed it on a par with love for one's neighbor. The two loves are not contradictory; they find their union in the highest love—love to God. In the same way self-interest in economic life is not incompatible with a conscientious and generous consideration of the material welfare of others. They are both united in the love of humanity. The humanitarian spirit has room for both. Self-interest without consideration for others becomes selfishness, which as

essentially different must be distinguished. Selfishness is self-love plus "indifference, disregard for others, enmity and readiness to rob every other individual and the commonwealth;"[1] and, as an evil tree, it cannot bring forth good fruit. It leads to segregation of individuals, separation of classes, distrust, finally mutual hatred, corruption and downfall of the nation. Altruism must and does accompany self-interest and with the progress of individual and national morality, they become ever more closely allied. But altruism without self-interest leads to self-sacrifice, which in the strictest sense of the term self-sacrifice, is immoral. Even when a wider scope is given to the meaning of altruism, it alone cannot possibly serve as an economic guide. It is desirable that as a rule individuals should be dependent upon their own resources most largely for their support and advancement. If I do not support myself, I become dependent upon the labor of others. It is therefore for the interest of society that my self-interest should prompt me to procure those economic goods which are necessary to support life, but always with regard for others. More than this; it is for the general interest that I should advance beyond the state of bare existence, as the progress of the race is inseparable from individual progress. The ideal of economic life then is the union of self-interest and altruism in a broad humanitarian spirit.

Another consideration occurs in this connection. It is impossible to separate the individual from his surroundings in state and society. In the strictest sense of the term and from a purely scientific standpoint, we do not live for ourselves alone but for one another as well as for ourselves. We are inextricably and organically bound up in state and society. What we call self-interest is *as a rule* not interest for one individual. It is a desire for the welfare perhaps of two, three or four united in a family, perhaps of a circle of friends or relatives, perhaps of a town, city, or state. How

[1] *Vide* Knies, Politische Oekonomie, 2te Auflage, s. 236.

many men toil for the *ego* alone? Assuredly very few. What we call egoïsm is usually only relative. We mean the circle is too narrow. Of course all this does not deny the existence of such a thing as downright egoïsm or selfishness, any more than it denies the fact of the existence of robbery, falsehood, and murder.

All this proves that it is not individual self-interest, certainly not individual selfishness, but *social considerations which are the first and foremost factor in economic life in modern times.* It is a social consideration which induces the English capitalist to prefer "eight or ten per cent. profit with English society to the quadruple returns of California or Australia."[1]

Consider the bearings of a fact like this. Superior Germans devote themselves to the service of the state in some way or another and become army officers, civil service officials or university professors, receive a salary at the height of their career of from fifteen hundred dollars to thirteen thousand dollars in the rare case of a minister of state, regard their careers as remarkably successful and look with condescension upon the millionaire merchant; while in this country the ablest men have hitherto as a rule devoted themselves to commercial and industrial undertakings. Now, what is it which decides the young man of talent in the one country to seek distinction in the army with the certainty that he will die a poor man, and the young man of like gifts in the other to go in quest of the almighty dollar? Is it the desire of wealth? Assuredly not. The first, the prime motive is the different social estimate placed upon success in diverse fields in Germany and America, and this divergence in social estimate is due to historical causes, which no amount of pure deductive reasoning can ever discover.

Then look at the life of women, who comprise one half of the human race. Will any one deny that social considerations rather than the desire of wealth shape their lives? Are

[1] Character and Logical Method of Political Economy, p. 49.

not the newspapers continually bewailing the fact that those employments for women which have the shadow of gentility attached to them, are so crowded as to force wages down to a starvation point; while honest and womanly occupations, at all menial in character, but not one whit more arduous, are not sought, though the renumeration offered is excellent?

The economic system, based on the exclusive consideration of self-interest, is full of self-contradictions, as has been shown with sufficient clearness by Professor Knies.[1] Self-interest is called beneficial and exclusive of other motives; yet it is admitted that some men are actuated by higher impulses, which would go to prove that it was neither exclusive nor wholly desirable. Economists maintain that motives of self-interest lead to the most perfect form of society, and, when reproached for this, reply that ethics and religion are correctives. What need of correctives and restraint for that which is good? It reigns in economic life but not in the larger life, that is to say, the same man is controlled in certain spheres of action by one motive and in other spheres by quite a different one; in other words this strange psychology destroys the unity of the mind! As Knies sums it up, "One knows not upon which self-contradiction in this entire doctrine one shall lay most stress in order to demonstrate the uncertainty of the politico-economic laws constructed upon it. Self-interest, it is maintained, is the motive of the economic activity of men—but by no means of all men; it promotes the common welfare—but by no means in all cases; it is, so to say, beneficial in its weakness and injurious in its strength; it controls the economic activity of men—but does not reign outside the economic sphere!"[2]

This Manchester doctrine of self-interest took its origin in French materialistic philosophy of the eighteenth century, is essentially materialistic, and as such is very properly treated by

[1] *Vide* Politische Oekonomie, ss. 229–233.
[2] S. 233.

Lange in his "History of Materialism,"[1] and he rates it below the philosophic system of Epicurus. When looked at in this light it does not appear strange that Kingsley applied to it the epithet, "atheistic."

Not to extend this criticism unduly, only one more point will be taken up; that of the natural laws of political economy.

Phrases like natural law, natural right, came largely into use through the influence of the French philosophy of the last century. They indicate opinions of an individual or more generally of a considerable class of persons as to what is right in itself, in the very nature of things. The difficulty is a want of harmony as to absolute right between various nations and between various ages and schools in the same country. "Right on this side of the Pyrenees, wrong on the other," is a phrase which points to this divergence. Where is the infallible guide who is to decide as to natural, social or economic law? The truth is, the man ventures on very dangerous ground, who declares a certain form of society or a given economic institution to be in accordance with the absolute law of nature. As Bentham calls it, it is usually "simply dogmatism in disguise." Several years after our Revolutionary War, the right of the eldest son to receive a double portion of his father's estate obtained in several of the states of the American Union, and was spoken of as "being according to the law of nature and dignity of birthright."[2]

The writer will conclude this division of his subject by a quotation from a very able paper, by Émile de Laveleye, on the "Natural Laws and the Object of Political Economy,"[3] and he is happy to be able to draw to his support in this manner the able Belgian champion of the new school: "These pretended natural laws are either pure truisms or facts borrowed

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[1] 3te Auflage, 1866–7, 2ter Bd. ss. 453–483.

[2] G. T. Bispham on Law in America, in *North American Review* for 1876 (vol. 122).

[3] Journal des Économistes, Avril, 1883.

from another order of observations than that with which the economist is occupied. Messieurs Magnin and Maurice Block say to me: But is it not a natural law that man is guided by his own interest? I reply: Yes, in general, but it is not at all necessary in the same sense that the laws of nature are necessary; for frequently man sacrifices his interest to his duty. Besides, that is a postulate furnished to political economy by anthropology. In his speculations, the economist makes use of mathematical laws; he takes notices of the fertility of the soil in treating of rent; of steam, in treating of machines; but all this does not constitute the true object of his science. You may reply further that man must eat to live, and that in order to eat it is necessary to labor and that these are natural economic laws. I reply that they are simply natural facts, which the economist ought not to neglect, . . . but which are borrowed from other sciences. . . . But in the first elements of our researches, see how human institutions and laws modify your pretended natural laws. If there is one law which seems to be imposed upon all organized beings it is that, having the need of nourishment, they must make use of their powers in order to satisfy their wants, and nevertheless in the midst of this social order, which you proclaim natural, this primordial law is violated in virtue of certain institutions which permit the strongest to live without producing anything. . . .

"But is not the great economic law of supply and demand a natural law? Not at all, for Stuart Mill has demonstrated how it is modified by custom. . . . At bottom it is only the truism proved by the experience of all cooks: When fish is scarce, it is dear. In sooth, a beautiful discovery! Nevertheless there is nothing necessary in this. Suppose a religious law which forbids one to eat fish; it might be very scarce and at the same time cheap. . . .[1] Among natural economic laws, M.

[1] What Professor de Laveleye says would undoubtedly hold in a country like Brazil, whose whole economic life has for years been essentially modified by religious holidays.

Brants cites, in order to refute me, property;—the most universal fact of history, cry all the other economists in chorus. I study history, and I find on the contrary that private property in land, such as has been left us by Roman law, is a recent fact, and that in early times property in the soil was everywhere collective property. According to this then, collectivism would be the natural order. . . . Let us go a little farther. The pivot of all your orthodox political economy and the most natural of your natural laws, is that man pursues his own interest in everything, and that he is guided in his actions by the desire of well-being and the pursuit of wealth. Now there is a political economist of high merit, and correspondent of the 'Institut,' M. Charles Périn, who in his work 'De la Richesse dans les Sociétés Chrétiennes' (3d edition), claims to demonstrate that it is the principle of renunciation which alone can resolve economic and social problems. Perhaps he pushes his proposition too far, but the more I study ancient and modern facts, the more I find this opinion worthy a serious examination. At all events, it is certain that the grandest human actions have been accomplished by humanity under the influence of altruistic sentiments. . . . Political economy reduced to the abstract formulae of your natural laws is an emptier scholasticism than that of the Middle Ages. It is on this account that it has lost credit; not only in Germany and in Italy, but far more in the land of its birth, England."

All these weaknesses—felt even when not put in words—and others not enumerated, gradually attracted attention. Utterances of dissatisfaction with the conclusions of orthodox political economy, early expressed, became ever more outspoken and pronounced with the advance of criticism and the development of progress, which found no satisfactory explanation in this system. New wine was put into old bottles and the bottles broke and—perished.

Protest against the harsh doctrines of Ricardo and his followers was early entered by those who were not professional

political economists. Dickens's works are full of such protests. Nothing, for example, could be more cutting than the irony with which he describes the principles of the Gradgrind school in his "Hard Times." Early in the story poor Sissy Jupe fills them with despair at her stupidity by returning to the question, "'What is the first principle of political economy?' the absurd answer, 'To do unto others as I would that they should do unto me.'" Farther on, when poor Gradgrind appeals to his too apt scholar, Bitzer, to admit some higher motive than self-interest, he is told that "the whole social system is a question of self-interest. What you must always appeal to is a person's self-interest. It's your only hold." Then our author adds: "It was a fundamental principle of the Gradgrind philosophy that everything was to be paid for. Nobody was ever, on any account, to give anybody anything, or render anybody any help without purchase. Gratitude was to be abolished, and the virtues springing from it were not to be. Every inch of the existence of mankind, from birth to death, was to be a bargain across a counter. And if we didn't get to heaven that way, it was not a politico-economical place, and we had no business there." Frederick Maurice, the English Christian socialist, Ruskin, and Carlyle have all condemned in unmeasured terms the "Cobden and Bright" political economy as detestable. Such expressions, even, as "bestial idiotism" are used by them in speaking of free competition as a measure of wages.

Such attacks naturally formed no basis for a reconstruction of the science, nor was such a basis found in the writings of political economists like Adam Müller and Sismondi. They repudiated the Adam Smith school, and gave many good grounds for their opposition, but they failed to dig deep and lay broad, solid foundations for the future growth of political economy. This was also the case with men like Frederick List and our own Carey. The younger Mill—John Stuart—occupies a peculiar position. He adhered nominally all his life to the political economy of his father, James Mill, and

his father's friend, Ricardo. Yet he confesses in his autobiography that the criticism of the St. Simonians with other causes early opened his eyes "to the very limited and temporary value of the old political economy, which assumes private property and inheritance as indefeasible facts, and freedom of production and exchange as the *dernier mot* of social improvement." The truth is, when Mill became dissatisfied with numerous deductions drawn by the leaders of his school, he obtained others, not by investigating and altering the foundation upon which he was building, but by introducing new material, *i. e.*, new motives and considerations, into the superstructure. Mill stood between an old and a new school, having never been able to decide to leave the one or join the other once for all. In political economy he was a "trimmer." This, of course, unfitted him to found a new school himself.

But Mill's scattered expressions of scepticism concerning the value of the deductive political economy and his gradual abandonment of its doctrines, were seed sown, which has sprung up and borne abundant fruit in England; and all this prepared Englishmen to listen when T. E. Cliffe Leslie, filled with German ideas, began about 1870 to attack in unqualified terms the school of *à priori* economists, and these themselves showed a tendency to weaken. Finally the claim of political economy and statistics to form a section of the "British Association for the Advancement of Science" was disputed because their "claims to citizenship in the commonwealth of science" were only "half recognized," and in 1878 at the Dublin meeting of the association, Professor Ingram, president of the section, delivered an address, in which the position of political economy was examined and many of its older methods and principles severely criticized and rejected. This address was published in the proceedings of the association[1] and also in the form of a *brochure* by Longmans, Green & Co., and scattered broadcast the seeds of economic scepticism. Thus it

[1] Pp. 641–658 of volume for 1878.

has come to pass that a man like Professor Jevons, who still professed his belief in the possibility of an abstract science of political economy, could in 1879 reject the Ricardian principiples in terms as strong as these: "The conclusion to which I am ever more clearly coming is that the only hope of obtaining a true system of economics is to fling aside, once and for ever, the mazy and preposterous assumptions of the Ricardian school. Our English economists have been living in a fool's paradise." The writer has thus sketched the decline and fall of the classical political economy with special reference to England, the home of its birth.

## VI.—The New School.

About 1850, three young German professors of political economy, Bruno Hildebrand,[1] Carl Knies,[2] and Wilhelm Roscher,[3] began to attract attention by their writings. The Germans had previously done comparatively little for economic science, having been content for the most part to follow where others led,[4] but men soon perceived that a new creative power had risen. These young professors rejected, not merely a few incidental conclusions of the English school, but its method and the sufficiency of its assumptions, or major premises—that is to say, its very foundation. With their followers, who up to the present have continued to increase in numbers and influence, they took the name Historical School, in order to ally themselves with the great reformers

[1] Nationalökonomie der Gegenwart und Zukunft, Frankfurt a/M. Bd. I, 1849.

[2] Politische Oekonomie vom Standpunkte der Geschichtlichen Methode. Braunschweig, 1st ed. 1853. 2d ed. 1881–3.

[3] Grundlagen der Nationalökonomie, 1st ed., Stuttgart, 1859; 16th, 1883. English translation, New York, 1878.

[4] I do not mean that the Germans previous to this time had rendered no services to economic science; such is not the case. But if one examines the work of a man like Rau, up to that time undoubtedly the first German economist, one sees that all the progress made is along the old lines.

in Politics, in Jurisprudence, and in Theology. They studied the present in the light of the past. They adopted experience as a guide, and judged of what was to come by what had been. Their method may also be called experimental. It is in many respects the same which has borne such excellent fruit in physical science. These men did not claim that experiments could be made in the same way as in physics or chemistry. It is not possible to separate and combine the various factors at pleasure; and, although Stanley Jevons has shown conclusively that experiments in social and economic life are not only possible and advisable, but of frequent occurrence,[1] they are always difficult and often cannot be

[1] *Vide*, his work, "The State in Relation to Labor," (London, 1882), pp. 23–28, 37, 52, 59; also his essay on "Experimental Legislation and the Drink Traffic," first published in the *Contemporary Review* for February, 1880, then in his collection of essays, entitled "Methods of Social Reform" (London, 1883), pp. 253–276. On p. 256 of this latter work are found these words: "I maintain that in large classes of legislative affairs, there is really nothing to prevent our making direct experiments upon the living social organism. Not only is social experimentation a possible thing, but it is in every part of the kingdom, excepting the palace of St. Stephen's, the commonest thing possible, the universal mode of social progress." Compare with this these sentences from the first-named work (pp. 25–6), "From time to time, too, statesmen have distinctly approved the experimental method. Thus, on 4th March, 1835, Mr. Secretary Goulburn, speaking of the new Factory Act of 1833, said that 'he thought it the most expedient course to make an experiment of the law; so that from actual experience, rather than from contradictory opinions, they might be enabled to ascertain what alterations really were necessary.' In the debate upon the second reading of the Factory and Workshop Bill (11th February, 1878,) Mr. Fielden, whose father was one of the leaders of the party which carried forward the improvement of the Factory Laws, remarked that 'in all its legislation upon the subject, Parliament had been guided by experience, and had gradually extended the operations of the Acts from one trade to another.' In the same debate the Home Secretary expressed his concurrence in the statement that such legislation proceeded on 'a tentative system.' It must be quite apparent, too, that the common practice of passing an Act and then remedying its mistakes, oversights, omitted cases, inconveniences or unforeseen wrongs, in successive Amendment Acts, is really an application of the tentative or experimental method."

made at all as experiments, because the welfare of nations is too seriously involved. But these men claimed that the whole life of the world had necessarily been a series of grand economic experiments, which, having been described with more or less accuracy and completeness, it was possible to examine. The observation of the present life of the world was aided by the use of statistics, which recorded present economic experience. Here they were assisted by the greatest of living statisticians, Dr. Eduard Engel, late head of the most admirable of all statistical bureaus, the Prussian. Hence their method has also been called the Statistical Method.[1] Economic phenomena from various lands and different parts of the same land are gathered, classified, and compared, and thus the name Comparative Method may be assigned to their manner of work. It is essentially the same as the comparative method in politics, the establishment of which Mr. Edward A. Freeman regards as one of the greatest achievements of our times. The method of modern political economy is likewise called Physiological, to call attention to the fact that it does for the social body what physiology does for our animal bodies.[2] Account is taken of time and place; historical surroundings and historical development are examined. Political economy is regarded as only one branch of social science, dealing with social phenomena from one special standpoint, the economic. It is not regarded as something fixed and unalterable, but as a growth and development, changing with society. It is found that the political

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[1] This name has been sometimes reserved for one wing of the Historical School without sufficient reason. The difference between its various members is simply one of degree.

[2] "Was wir versuchen, ist die einfache Schilderung, zuerst der wirthschaftlichen Natur und Bedürfnisse des Volkes; zweitens der Gesetze und Anstalten, welche zur Befriedigung der letzteren bestimmt sind; endlich des grösseren oder geringeren Erfolges, den sie gehabt haben. Also gleichsam die Anatomie und Physiologie der Volkswirthschaft!" Roscher, Nationalökonomie, 14te Auflage, § 26.

economy of to-day is not the political economy of yesterday; while the political economy of Germany is not identical with that of England or America. It is on this account that a knowledge of history is absolutely essential to the political economist. The field of his investigations is the economic life of peoples, and this life is in each case a unity as truly as the life of an individual man is a unity. The life of to-day and yesterday is only a link (Knies). in a great chain; it reaches back into a remote past on the one hand and extends forward into an indefinite future on the other. What is, is closely connected with what has gone before and conditions what is to come. All these parts constitute an organic whole, and it is as impossible to comprehend the economic life of to-day without regard to the past, as it is to understand the body of the full-grown man without a previous study of that of the infant and of the youth. It is the recognition of this intimate and organic relation between history and political economy which renders the title of the new school, the Historical School of Economists, peculiarly fitting. In opposition to the "absolutism of theory" of the political economy of the past, "the historical conception of political economy rests upon this principle: like the conditions of economic life, the theory of political economy, in whatever form found and with whatever argument and conclusions supported, is a product of historical development; it grows out of the conditions of time, place and nationality in vital connection with the entire organism of an historical period; it exists with these conditions and continues to develop with them; it has the source of its arguments in historical life, and must ascribe the character of historical[1] solutions to its conclusions; further all the universal laws of political economy represent only an historical exposition and progressive, advancing manifestation of truth. In every stage of its progress, the theory of political economy is the generalization of truths recognized

[1] *I. e.*, relatively, not absolutely true,—valid for certain times and places.

up to a certain point of time, and this theory cannot be declared complete, either as respects its form or substance. When and where absolutism of theory has acquired credit, it must be regarded only as an offspring of the time and as a definite period in the historical development of political economy."[1]

All *à priori* doctrines or assumptions are cast aside by this school; or rather their final acceptance is postponed, until external observation has proved them correct. The first thing is to gather facts. It has, indeed, been claimed that for an entire generation no attempt should be made to discover laws, but this is an extreme position. We must arrange and classify the facts as gathered, at least provisionally, to assist us in our observation. We must observe in order to theorize, and theorize in order to observe. But all generalizations must be continually tested by new facts gathered from new experience.

It is not, then, pretended that grand discoveries of laws have been made. It is, indeed, claimed by an adherent of this school, as one of their particular merits, that they know better than others what they do not know. But it must not, therefore, be supposed that their services have been unimportant. The very determination to accept hypotheses with caution, and to test them continually by comparing them with facts unceasingly gathered, is a weighty one, and promises good things for our future economic development. And in gathering facts, they have been unwearied. Their contributions to our positive knowledge of the economic institutions and customs of the different parts of the world have been wonderful.

An excellent service rendered to science by men of the younger school is a new and undoubtedly more correct interpretation of economic history. The past is not judged by the surroundings of to-day but an effort is made to understand it

[1] Knies, Politische Oekonomie, 2d ed., pp. 24–25.

by a sympathetic consideration of its own environments. In this manner new light has been thrown upon our studies and we learn that our fathers have been wiser than we have been inclined to think, and that it has not been reserved for our day to discover all that is good and true in the economic life of nations. A concrete example of the fruits of this new method is found in the almost complete reversal of opinion concerning the policy advocated by those we call Mercantilists. It is now acknowledged that they were, on the whole, very shrewd, sensible men, whereas not long since doctrines and measures were attributed to them, which would lead one to suppose it necessary to go back only two hundred years to discover man with a caudal appendage. The advanced economists have, too, infused a new spirit and purpose into our science. They have placed man as man, and not wealth, in the foreground, and subordinated everything to his true welfare.[1] They give, moreover, special prominence to the social factor which they discover in man's nature. In opposition to individualism, they emphasize Aristotle's maxim, *ὁ ἄνθρωπος φύσει πολιτικὸν ζῷον*, or, as Blackstone has it, "Man was formed for society." They recognize, therefore, a kind of divine right in the associations we call towns, cities, states, nations, and are inclined to allot to them whatever economic activity nature seems to have designed for them, as shown by careful experience. They are further animated by a fixed purpose to elevate mankind, and in particular the great masses, as far as this can be done by human contrivances of an economic nature. They lay, consequently, stress on the distribution as well as on the production of wealth.

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[1] This is a return to the conceptions of the Greek philosophers of classical antiquity. I should say, for example, that if one were to construct a political economy on the basis of the philosophy of Plato, its definition would be about as follows: Political Economy is the science which prescribes rules and regulations for such a production, distribution and consumption of wealth as to render the citizens good and happy.

They watch the growing power of corporations; they study the tendency of wealth to accumulate in a few hands;[1] they observe the development of evil tendencies in certain classes of the population—in short, they follow the progress of the entire national economic life, not with any rash purposes, but with the intention of preparing themselves to sound a note of warning when necessary. If it becomes desirable for a central authority to limit the power of corporations, or to take upon itself the discharge of new functions, as the care of the telegraph, they do not hesitate to counsel it. They make no profession of an ability to solve all economic problems in advance, but they endeavor to train people to an intelligent understanding of economic phenomena, so that they may be able to solve concrete problems as they arise.

One of the most marked features of the political economy of the present is its conception of the organic nature of the economic life of peoples. Reference has already been made to this fundamental fact, and it will now be explained more at length, as the writer conceives it.

The nation[2] in its economic life is an organism, of which individuals, families, groups and even towns, cities, provinces, etc., in their economic life form parts. This is strictly and literally true, as is shown conclusively by comparing the facts of economic life with the ideas embraced in the conception, organism. An organism is composed of interdependent parts, which perform functions essential to the life of the whole. Now a people embraced in one sovereign government together constitute such a whole. The people does not

[1] To prevent misunderstandings it is well to state that I speak only of a tendency and say nothing about counteracting forces.

[2] The word is used in the sense assigned to it by Mulford in his admirable work, "The Nation," to denote the people, considered collectively, in a state. It is to be borne in mind that all the United States together, like Switzerland and Germany, constitute one state. A single canton like Geneva, a single state like Prussia, and one of the United States like Pennsylvania are, in an economic sense, less truly states.

consist simply of a sum of individuals, nor does the national economic life—which it is the province of political economy to investigate—mean a sum of individual economies. This notion, the fictitious assumption of the classical individualistic political economy, holds only of men living in an isolated barbarous condition, which is a low, mean state of independence. But the first and foremost factor of modern economic life is dependence. The phenomena of exchange at once make this clear. In our advanced society, men do not produce for themselves chiefly, but for others. One man produces shoes and does not consume the hundredth part of what he produces, while he desires a thousand and one commodities which he does not produce. How does he obtain them? Naturally by exchange. But what must have preceded this act of exchange? Evidently production on the part of some one else. Here is the first elementary fact of dependence. We produce for others, but can obtain from others the satisfaction of our wants only on condition that they produce for us. The shoe manufacturer may labor never so industriously, but it avails him not unless others labor. His efforts will likewise be in vain unless he produces what others want—a second fact of dependence. He must likewise be able to induce others to produce such goods as will satisfy his desires—a third fact of dependence. This is only the beginning. Other men produce the same articles, shoes, and desire of the remaining members of this organism the same commodities, *e. g.*, coats, hats, bread, meat, houses, horses, cows. Here we have briefly indicated four main facts of dependence. In a society in which production is carried on for exchange, each producer is dependent upon

1. His own exertions expended in the creation of utilities.

2. The exertions of those who produce commodities which he desires.

3. Upon the exertions of those who produce the same commodities which he produces; that is to say, upon competition among sellers.

4. Upon the efforts of others to procure the commodities which he himself desires, that is to say, upon competition among buyers.[1]

As civilization advances, exchanges multiply and dependence increases. The economic life of a civilized people is to-day a most delicate organism, which easily gets out of order, as is seen in constantly recurring crises. Certain parts of this organism then cease to operate satisfactorily, and it becomes apparent how essential to the life of the whole is the performance of the functions of all the parts.

The people of each state constitute an economic organism. The separate laws, national boundaries, both artificial and natural, common systems of taxation, generally common language, to a certain extent common ideas and notions, and a common history comprising common experiences of joy and sorrow,—all act together to divide land from land and to give to each its own peculiar and separate economic existence; in other words, to make of each a separate organism. These separate organisms are connected with each other, and that more closely with the progress of civilization, in particular with improvement in the means of communication. Thus does economic dependence increase not only in intensity, but in extent. If a world-state is ever formed and perpetual peace established, an economic world-organism will doubtless follow. At present it can be said to exist only in embryo, inasmuch as national isolation is still too pronounced.

In opposition to those who would absorb the individual in the state, a fact frequently emphasized by Knies ought to be kept constantly in mind. An economic state-organism is after all different from an organism like a tree or a plant, inasmuch as its separate parts are themselves organisms; of which each has its own ends and is in turn composed of parts, performing their own functions, essential to the existence of the whole. Two simple examples of frequently occurring phe-

[1] These four headings are to be found in Knies's "Political Economy."

nomena, will suffice to illustrate the divergence in cases between the interests of the state-organism, and the individual organisms which are its parts. A railroad which benefits the state as a whole may destroy an old family homestead, dear to its owner beyond all money. A lottery injurious to the people as a whole, may be a large source of revenue to an individual.

It may be well in this place to devote a few words to two discoveries of Adolf Wagner, the corypheus of German economists, and the word discoveries is used advisedly; for, though the truths he pointed out are not new in themselves any more than were the Malthusian doctrine of population and the Ricardian theory of rent, they are new in the connection in which they are placed and in the meaning which is put into them. The one discovery is the law of increasing functions of government, and the other is the explanation of the three principles of the economic life of peoples.

Wagner has shown how government has taken upon itself function after function, and how the operations of government trench more and more upon the domain of private industry. This is of the highest importance, as it would lead in time to the absorption of all business by the state, did no counteracting forces begin to act more powerfully than at present.

Whatever our views respecting the first discovery, the second is unquestionable. Wagner has pointed out that there are three essential and distinct principles in all economic life of peoples.

The first is the individual, which was too exclusively dwelt upon by the orthodox political economy. Under this head the powerful and beneficent effects of self-interest as seen in the pursuit of wealth and in its other economic manifestations are sufficiently dwelt upon; and the other facts of private economies (*e. g.*, the principles and phenomena of business life, as it is called), are set forth. The second principle is the social, which acts through the state, and which the socialists,

reasoning on the false assumption that if a little is good, more must be better, wish to elevate to the reigning and exclusive principle of economic life.[1] The state corrects, modifies and rounds out the individual action. Wagner has done meritorious work in his attempts to elucidate the second principle. He has endeavored to give general norms to determine the economic functions of the state and he has been successful in his treatment of certain particular economic functions like the care and preservation of forests. As he attempts to define the position of law in political economy and as he always keeps in mind his social standpoint, he has defined his conception as the *socialrechtliche Auffasung*—the socio-legal conception, if it be allowable to coin that word on the model of sociology. Then follows the caritative principle,—caritative from *caritas*, love,—the principle of brotherly love, as seen in voluntary action in behalf of others. Almsgiving is only one form. The generous deeds of philanthropists are another form this principle takes. It softens the asperities of life and removes hardships from individuals as neither the first nor second could by any possibility do. Not obliged to operate according to rule and general law, it takes notice of special cases; it regulates, modifies and elevates. The need of the time is to develop into intelligent, harmonious and sufficient activity all three principles. The preponderance of any one is injurious. The unintelligent operation of any one is baneful. What is more admirable than the caritative principle! What more harmful when it acts without wisdom in indiscriminate almsgiving!

Not the least merit of the younger school consists in this: they have shown that the attempt to construct a purely theoretical political economy, altogether apart from considerations

[1] By the state we mean the political subdivisions of a land as well as the central authority, comprising the people as a whole. The state is a unity comprising many subordinate political unities. To all these Wagner gives the admirable name, compulsory economic communities, Zwangsgemeinwirthschaften. They are coöperative associations resting on a compulsory basis, in distinction from voluntary coöperative associations.

[redacted]

In order to obtain a clearer insight into the political economy of the present, the writer will enumerate the more dis-

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[1] Another interesting illustration of the necessity the political economist is under of taking into account legal institutions, is furnished by the laws regulating partnerships. Modern joint stock companies were, in recent times, illegal in England. What weighty economic consequences have followed the change in the laws which allows their foundation!

worthy articles which have been written for economic journals of late. A definition may mean two things: what is, and what ought to be. An examination of economic journals shows us the subjects which are actually engaging the attention of economists of the present time. It shows "what is" and gives a definition of political economy in that sense. One of the best and most widely circulated economic journals is Conrad's "Jahrbücher für Nationalökonomie und Statistik." The main feature of each issue is one or more essays or monographs, and the subjects of those which have appeared during the year 1882 and 1883 will be enumerated:

1. The Mortality of Infants due to Crime and Poverty and the Importance of this Mortality for the Economic Conditions of Europe.
2. Cause and Effects of a Premium on Paper Money.
3. Trade Unions among the Cigarmakers in Havana.
4. The Cobden Club and German Exports.
5. Labor Time and the Normal Labor Day in the United States.
6. Bimetallism.
7. On Insurance.
8. Income of the Prussian People.
9. The Population of Cities in Earlier Centuries; a study based on the archives of the city of Rostock.
10. On Insurance of Laborers.
11. Treats of some features of Insurance.
12. Reform in Taxation in Germany.
13. Treats of certain Economic Associations in Russia.
14. Forestry and the Economic Life of the People.
15. Population of Brazil in the XVth Century.
16. On German Exports.
17. Trades Unions in the United States.
18. Finances of Prussia.
19. Study of Political Science in America.
20. Bank Note Circulation in Germany.
21. Population of Strassburg from the close of the XVth Century to the Present.

22. Insurance of Laborers.
23. On Ethical Statistics.

The leading French journal of Political Economy is the *Journal des Économistes*, an exponent of the orthodox school. The writer takes up the numbers for 1882, simply because most convenient, and finds that the following are the titles of the leading articles for the first quarter of that year, apart from reviews of publications and reports of various scientific meetings:

1. Finances of Alsace Lorraine.
2. Financial and Economical Situation of the United States.
3. Gold and Silver.
4. The Production and Consumption of Coffee.
5. Agriculture and Manufacturing Industry as affected by Tariff Legislation.
6. Governments and Industry on a Small Scale.
7. Studies upon "Latin" America (New Granada, Venezuela, etc.).
8. Four Labor Congresses.
9. On Method in Economics.
10. Beer, Wine and Spirituous Liquors in England.
11. Economic Poetry of the XVIIIth Century.
12. On the Exchange.
13. The State and the School.
14. Albums of Graphical Statistics of Public Works.

One of the most active economists of England during the last ten or fifteen years was the late Professor Jevons. His two last books were "The State in Relation to Labor," published in 1882, and the collection of essays, published in 1883, bearing the title "Methods of Social Reform," treating of topics like "Industrial Partnerships," "Married Women in Factories," "The Railways and the State."[1]

Perhaps Professor Thorold Rogers, whose *magnum opus* is his "History of Agriculture and Prices," is as promi-

[1] A work by him, entitled "Investigations in Currency and Finance," was announced last year.

nent as any living English economist. In an excellent review of this work, published in *The Nation* of July 20, 1882, Professor Henry C. Adams says: "It is certainly significant, as indicating the present tendency of aggressive work upon economic subjects, that an author who is able to content himself with a small duodecimo volume, when writing a 'Political Economy,' should not regard four octavo volumes, averaging seven hundred and forty-five pages each, as too pretentious when presenting a 'History of Agriculture and Prices in England,' though it covers three and a quarter centuries only."

The reader will have observed that the subjects treated of are mostly such as are embraced under the topics Finance and Social Problems. In fact, dissatisfaction on the part of social classes with their condition, and financial difficulties of governments, have ever been the two chief impelling causes of economic study, and to-day economists are mainly occupied with them. Scholastic wrangling concerning nomenclature and verbal quibblings concerning definition have sunk into comparative insignificance. If regard were had only to "what is" it would not be very far out of the way to define political economy as that branch of knowledge which deals with social and financial problems. But this, although a wide field, is not sufficiently broad. Political economy, as set forth in systematic treatises, still deals with generalizations drawn from economic experience, even when their practical utility may not be at once apparent; further, with the problem of premises of economic knowledge; also with nomenclature and definitions,[1] in order to promote a clear and precise expression of ideas and a better understanding of economic phenomena.

The most recent great work on political economy, which has been completed, is the "Handbuch der Politischen Oekonomie," edited by Professor Schönberg, of the University of Tübingen, written by himself in co-operation with twenty-

[1] For some interesting remarks on definition, *vide* Sidgwick's article on "Economic Method," in *Fortnightly Review*, N. S. XXV. (1879), pp. 301–18.

one other economists, each taking that part for which previous study and natural abilities best fitted him. In this work Professor Von Scheel[1] explains as follows the content and scope of political economy: "The office of political economy is to describe the relations of private economies[2] to one another, their union into larger economic communities, taking into account their origin and constitution, and to prescribe norms for the most adequate ordering of these relations, reference being had to the demands of the degree of civilization attained and to be attained. . . . It has to do with man as a member of communities. . . . It has to examine the present constitution, the development and the direction of the development of that side of the life of a people which is directed towards the acquisition, the distribution and the consumption of material goods, in so far as this concerns interrelations of economic bodies (individual and common, private and public)."

Characterized more briefly, Political Economy studies social phenomena from one particular standpoint, viz., that standpoint which relates to the acquisition, distribution and consumption of economic goods. Essentially the same conception is conveyed by Knies's definition: "Political Economy examines the conditions, the processes and the results of the economic life of men in communities." In the case of both these definitions, it is tacitly assumed that the economist who studies and examines economic life, will not neglect to advise and to prescribe norms for the most satisfactory economic organism.

The latest important definition of political economy is that of M. de Laveleye, in his "Éléments d'Économie Politique," published in 1882. It is this:[3] "Political Economy may therefore be defined as the science which determines what laws

[1] Bd. I., S. 57.

[2] By economy is meant the entire economic activity of a person or group of persons; the efforts put forth to satisfy wants, particularly material wants.

[3] Taken from p. 3 of the English translation, published by G. P. Putnam's Sons, New York, 1884.

men ought to adopt in order that they may, with the least possible exertion, procure the greatest abundance of things useful for the satisfaction of their wants, may distribute them justly and consume them rationally." Although, according to M. de Laveleye, political economy seeks to discover "the laws, whether moral, religious, political, civil, or commercial, which are most favorable to the efficiency of labor," it has chiefly to do with legislation, and most economic questions of the day are questions of legislation. Examples mentioned are "the reform of the laws relating to custom duties, of the land laws, of the laws on currency, of credit, of banking, companies, factory labor, railways, taxation."[1] "Political economy," adds the same author,[2] "is commonly defined as 'the science which describes the methods of production, distribution and consumption of wealth.' This definition is altogether inaccurate. The modes of producing wealth are described in industrial manuals or treatises on agriculture; the mode of its distribution is the subject of statistics; the account of its consumption, the history of the daily life of the various nations." Though M. de Laveleye's general tendency corresponds to that of the German writers mentioned, he narrows somewhat the scope of the science, in confining it to the search for laws to promote human welfare, and he certainly does not keep within the bounds of his definition in his treatise, some parts of which are merely descriptive and analytic, as the section on the three factors of production, while other portions, like the part treating of rent, deduce conclusions concerning economic phenomena from premises without reference to any question of legislation. It might be said, perhaps, that rent was connected with private property in land, a legal institution; but this is pushing things too far; and the law of landed property alone is not sufficient to explain rent.

It is seen thus that there is not by any means perfect harmony between the adherents of the younger school; in fact, there are many minor subdivisions and directions of doctrine

[1] P. 2. [2] P. 3.

or tendencies among them. Nevertheless the common features are sufficient to enable one to characterize the school as one great stream of economic thought, quite different from the first great stream represented by the classical political economy.[1]

The method pursued is decidedly inductive in the sense in which that word is used in this paper, and it is well in this place to notice once more a common objection urged against this method. It is said that the facts of economic life are infinite in number and variety, and are quite beyond the grasp of the inductive investigator.

This is plausible, but it overlooks certain marked facts of modern life. If the phenomena of social and industrial life are numerous, so are those numerous in proportion whose business it is to arrange and classify these facts for the student. Let us take up, for example, the subject of national banks in the United States. Certainly a man could never reach any valuable conclusion concerning them by visiting bank after bank and watching people make deposits, or withdraw them, discount bills, calculate interest, &c., &c. The life-time of man is too short. But there are ten thousand bank officers whose life's work it is to watch, arrange and classify facts, which are duly reported four times a year at least to the Comptroller of the Currency, and it is the business of this officer in coöperation with assistants again to

[1] No mention has been made of the younger "Mathematical School" of political economists, of whom the chief representatives are Stanley Jevons ("Theory of Political Economy," 2d ed., 1879,) and Léon Walras of Lausanne ("Éléments d'Économie Politique Pure," 1874), because it is difficult to see in their mathematico-economical works anything more than a not very successful attempt to develop further the older abstract political economy. Any advance of the science due to the mathematical character of their method has certainly not as yet become widely known and the writer is much inclined to believe that the works which have advocated the application of mathematics to economics form no essential part of the development of economic literature. Certain unreal conceptions and a few definitions are used as bases for mathematical deductions. When Stanley Jevons treats of practical questions, as in his work, "The State in Relation to Labor," or in his "Methods of Social Reform," his arguments are essentially inductive, and no use is made of the higher mathematics.

sift, arrange, classify and publish these facts, after which they are discussed by the press of this and foreign lands. Even this is not all. Bankers meet in annual convention, disclose their various experiences in formal manner, gather new conclusions from comparison and publish reports to the world. But even this is not all. It is the special function of bankers' magazines to publish from month to month the experience of banks as it occurs, and in this way it is put on permanent record. Thus it is that the economist who wishes to study the phenomena of United States national banks, has at his service a whole army of men who spend their entire time in furnishing him with material in the most convenient shape. Will it then be pretended that it is impossible to study our national banks inductively? This is a single example, but many more might easily be adduced. Insurance is in a similar condition. In Germany an experiment in state insurance of laborers is being made, and it is the business of special functionaries to gather and arrange facts, as they appear. At some future time it will be possible to arrive at a conclusion inductively. English and German factory inspectors are employed, both to enforce factory legislation and to gather and classify facts concerning labor in industrial establishments, which are made accessible to the student. Thousands of men are employed in statistical bureaus, census-offices, clearing houses, chambers of commerce and other similar establishments for the express purposes of gathering, arranging and classifying the infinitely varied facts of modern economic life. When the matter is considered in this way, the case of the inductive economist appears by no means hopeless.[1] Doubtless his task is a difficult one, but that is unavoidable. It is on this account that political economy has become a subject too great to be mastered by any one man. Professor Schönberg secured the coöperation of twenty-

[1] Cf. Sir George Campbell's address as President of the "Economic Section" of the "British Association for the Advancement of Science" in 1876: published in the Proceedings for 1876.

one men in the preparation of his "Handbuch der Politischen Oekonomie," because "a work which should answer the demands of science and practical life could be produced only by the coöperation of many men."[1]

Even Professor Jevons, who was unacquainted with German political economy, and acknowledges he could not read a German book, was led by an independent course of study to a similar conclusion. The subject seemed so great to him that he thought it ought to be divided into several distinct branches. On this point he says:[2] "The present chaotic state of economics arises from the confusing together of several branches of knowledge. Subdivision is the remedy. We must distinguish the empirical element from the abstract theory, from the applied theory, and from the more detailed art of finance and administration. Thus will arise various sciences, such as commercial statistics, the mathematical theory of economics, systematic and descriptive economics, economic sociology and fiscal science. There may even be a kind of cross subdivision of the sciences: that is to say there will be division into branches as regards the subject, and division according to the manner of treating the branch of the subject. The manner may be theoretical, empirical, historical or practical; the subject may be capital and labor, currency, banking, taxation, land tenure, etc.,—not to speak of the more fundamental division of the science as it treats of consumption, production, exchange and distribution of wealth. In fact, the whole subject is so extensive, intricate and diverse, that it is absurd to suppose it can be treated in any single book or in any single manner. It is no more one science than statics, dynamics, the theory of heat, optics, magneto-electricity, telegraphy, navigation and photographic chemistry are one science."

The methods and principles of the Historical School have been continually gaining ground. In Germany they have

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[1] Vorwort.

[2] Preface to his Theory of Political Economy, p. xvii.

carried the day. The Manchester School may be considered as practically an obsolete affair—*ein überwundener Standpunkt*—in that country. Émile de Laveleye, the Belgian economist, may be named as the most prominent adherent of the school among writers who use the French language, but he has followers of more or less note in France, though the older political economy is stronger there than elsewhere—stronger than in England, its home. Nearly all of the younger and more active Italian economists, as Luzzati,[1] Cossa,[2] Cusumano,[3] and Lampertico,[4] show decided leanings towards the Historical School. These men have learned much from German writers, and Cossa was once one of Roscher's pupils. It is curious to note that they have met with the fate common to all who dare to disturb the repose of the every-day philistine and have been branded by economic orthodoxy as "Germanists, socialists, and corruptors of the Italian youth."[5]

T. E. Cliffe Leslie[6] has led this school in England, and contributed largely to its growth. The most noteworthy English scholars who have openly supported it to a greater or less extent are Stanley Jevons and Prof. Thorold Rogers,

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[1] A Venetian economist who has written in favor of coöperative societies, people's banks, etc. He was one of the leaders of the Congress of Italian Economists of the younger school which met in Milan in 1875. Its purpose was "to make clear the intentions of those who do not believe the science was born and died with Adam Smith and his commentators."

[2] Author of an excellent little "Guide to the Study of Political Economy," of which an English translation was published by Macmillan & Co., London, 1880.

[3] *V.* Le Scuole Economiche della Germania in Rapporto alla Questione Sociale. Naples, 1875.

[4] Of Vicenza, author of a complete economic course entitled "Economia dei Popoli e degli Stati," Vols. 1–4, Milano, 1874–8.

[5] The accusation of socialism is a common one and has been brought against every economist who has expressed new views from the time of Adam Smith up to the present. Whenever a man, into the darkness of whose mind an original idea never penetrated, is confronted with economic doctrines at all strange or new, he is ready to condemn them at once with the cheap reproach of "socialism."

[6] *V.* Essays in Moral and Political Philosophy, London, 1879.

whose monumental work on "Agriculture and Prices," written in the spirit of that school, has excited world-wide admiration. The younger men in America are clearly abandoning the dry bones of orthodox English political economy for the live methods of the German school. We may mention the name of Francis A. Walker, the distinguished son of Amasa Walker, as an American whose economic works are fresh, vigorous, and independent. Essentially inductive and historical in method, they have attracted wide attention and favorable notice on both sides of the Atlantic.

This entire change in the spirit of political economy is an event which gives occasion for rejoicing. In the first place, the historical method of pursuing political economy can lead to no *doctrinaire* extremes. Experience is the basis; and should an adherent of this school even believe in socialism as the ultimate form of society, he would advocate a slow approach to what he deemed the best organization of mankind. If experience showed him that the realization of his ideas was leading to harm, he would call for a halt. For he desires that advance should be made step by step, and opportunity given for careful observation of the effects of a given course of action. Again: this younger political economy no longer permits the science to be used as a tool in the hands of the greedy and the avaricious for keeping down and oppressing the laboring classes. It does not acknowledge *laissez-faire* as an excuse for doing nothing while people starve, nor allow the all-sufficiency of competition as a plea for grinding the poor. It denotes a return to the grand principle of common sense and Christian precept. Love, generosity, nobility of character, self-sacrifice, and all that is best and truest in our nature have their place in economic life. For economists of the Historical School, *the political economy of the present,* recognize with Thomas Hughes that "we have all to learn somehow or other that the first duty of man in trade, as in other departments of human employment, is to follow the Golden Rule—'Do unto others as ye would that others should do unto you.'"

IV

# SAMUEL ADAMS

## The Man of the Town-Meeting

"The old Teutonic Assembly rose again to full life in the New England town-meeting."—*Freeman.*

"Samuel Adams, the helmsman of the Revolution at its origin, the truest representative of the home rule of Massachusetts in its town-meetings and General Court."—*Bancroft.*

"A man whom Plutarch, if he had only lived late enough, would have delighted to include in his gallery of worthies,—a man who in the history of the American Revolution is second only to Washington,—Samuel Adams."—*John Fiske.*

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HERBERT B. ADAMS, Editor

History is past Politics and Politics present History — *Freeman*

SECOND SERIES

IV

# SAMUEL ADAMS

## The Man of the Town-Meeting

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# SAMUEL ADAMS,

# THE MAN OF THE TOWN-MEETING.[1]

## The Folk-Mote.

We are taught by the science of our time that if any organic body be analyzed, we reach at length the primordial cell; beyond this it is impossible to go. Like the body of a tree or the body of a man, so a body-politic has its primordial cell.[2] What is the proper primordial cell of a free Anglo-Saxon state?

In transacting the business of a nation, the mass of the people can act only through representatives, the sovereign or president who is put in the supreme place,—the Congress or Parliament, who are set to make the laws. As regards the sub-divisions of a nation, even in transacting the business of a county, things are quite too large and complicated to be managed in any other way than by delegates appointed for that purpose. But somewhere the people ought to act of themselves. "It is not by instinct," says a wise writer,[3] whose words are here abridged, "that men are able to form a proper judgment as to the qualifications and acts of their rep-

[1] This paper is based on studies for a new life of Samuel Adams.

[2] Herbert B. Adams: "The Germanic Origin of New England Towns," p. 5.

[3] J. Toulmin Smith, "Local Self-Government and Centralization," p. 29, etc.

resentatives. Such judgment can never be got by men in any other way than by habitual and free discussion, among themselves, of similar subjects. Through a certain independence of thought, and conduct, to be only acquired by being continually called on to talk and act in public affairs, do men become fit to elect representatives and judge of their conduct. Representative assemblies must exist for the more convenient carrying on of business, but regular, fixed, frequent, and accessible meetings of the individual freemen should also take place, in which public matters shall be laid before the people, by them to be discussed, and approved or disapproved. It is such local self-government that affords the most valuable education, both as to thought and action; the faculties of man will have this as their best school. As long as everything is done for them, men have no occasion to think at all, and will soon become incapable of thinking: but the moment they are thrown on their own resources, they wake from their torpor. It becomes necessary that they should act; and to act, they must think.

No name was ever devised which more fully expressed a reality than the word "Folk-mote," discussion by the assembled people. Throughout the Anglo-Saxon laws, indeed, in the earliest accounts of the Teutons, we find continual reference to the "Folk-mote," and long after the coming of William the Conqueror, the thing is to be traced.[1] It was the duty, enforced by penalties, of every man, to attend his Folk-mote, in order to discharge there the responsibilities which attached to him as a member of the state. There existed in England a system of local self-government by which there were fixed, frequent, and accessible meetings together of the folk or people, for discussing and determining

[1] Tacitus: Germania, XI. Waitz: Deutsche Verfassungsgeschichte, Band I, 4. Freeman: Growth of English Constitution, p. 17. May: Constitutional History of England, II, 460. Phillips: Geschichte des Angelsächsischen Rechts, p. 12.

upon all matters of common interest,—a system, the skeleton of which still exists, though it has been much overlaid. The fact is clear and unmistakable that there existed a system of local self-government minutely ramified and wisely devised so that there should be meetings together of the people in every part for the common purposes of getting justice nigh-at-hand, and also of understanding, discussing, and determining upon all matters of common interest."

This Folk-mote it is which lies, or should lie, at the foundation of everything in an Anglo-Saxon free state. For convenience' sake, in carrying on large affairs, representation must come in; but below that must be the assembly of the people, discussing and judging the public business, their interest roused, their faculties trained, from the fact that they so discuss and judge. This is the Primordial Cell of an Anglo-Saxon body-politic—this Folk-mote. Can the Folk-mote be found in America?

At the time of the colonization of America, the old self-government of the people had been, in England, in great part lost. The responsibility for the misfortune was a double one. It rested to some extent with the people themselves, who forgot their birth-right,—to some extent also with the kings and great men, who forgot they were only ministers of the people and assumed to be their masters. The sixteenth century and the first years of the seventeenth century found on the throne of England a race of kings who believed they ruled *jure divino*, owning little responsibility to the people in their exercise of power; the people had few rights, in the idea of these sovereigns, which they were bound to respect. Let us look at the colonies which were sent forth at this time. When the founders of New England established themselves, they did not reproduce the state of things they had left behind, nor on the other hand did they invent something new. They went back to those old ways which the English had to so large an extent forsaken. The little company of poor men had signed the compact in the cabin of the "Mayflower," to be mutually

bound by laws which all were to have a voice in framing, had set foot on the lonely bowlder, which now seems almost likely to be worn away by the reverent trampling of the multitudes who visit it, and exploring for a little, had built their camp-fires at last where sweet water gushed freely from the bosom of a hill. They felt forgotten by the world. Doing what was easiest to be done, following traditions which, so to speak, had come down in their blood, they set apart certain land to be held in common, a homestead for each man, built a fort of timber on the hill close by, ran their palisade where danger seemed most to threaten, established certain simple rules, and lo, when all was done, the little settlement was throughout, as to internal constitution and external features, essentially the same as an Anglo-Saxon "tun" or "burh," such as a boat-load of the followers of Hengist or Cerdic might have set up, as they coasted, searching for a home, along the isle of Thanet—or further back still, the same essentially as a village of the Weser shore or the Odenwald, set up in the primeval heathen days.[1]

When, ten years later, Winthrop with his followers came to settle Boston, they were richer, more numerous, better educated, but it was convenient for them, too, to go back to the old forms. Ship followed ship, almost unnoticed in the old world, where the minds of men were absorbed in the struggle between king and parliament, which presently burst into war. Twenty-one thousand, at length, sailing toward the beckoning finger of Cape Cod, had found a refuge in Massachusetts bay. They spread from the coast into the interior, through blazed paths of the forest, led by Indian guides to rich intervales in distant valleys, clustering about water-falls where fish abounded and where the grain could be ground, or in spots where there seemed a chance for mining. What determined the size of the towns was always conven-

[1] Edward A. Freeman: Introd. to American Institut. History, p. 15. Herbert B. Adams: Germanic Origin of N. E. Towns.

ience in getting to the Sunday meeting; for to church all were obliged to go, under penalty of fine or severe punishment. More often than not on the summit of some hill the meeting-house was built. The valleys, heavy with forest, were swampy and dangerous. As the country has cleared, the morasses have dried and the valleys have become the pleasant places; but in many an old town, the meeting-house remains perched on its summit, away from the modern dwellings which it has been more suitable, at length, to place in the low land. Where the meeting-house is with the dwellings, one can often find, hunting among the huckleberry bushes on the deserted hill-top close by, the foundation of the first temple, reared before the Indians and the wolves were gone. About in the territory, never so far away that it would be inconvenient on Sunday to go to meeting, the population spread itself. The twenty-one thousand that sought the wilderness were at first neglected, in good part lost sight of. Left to themselves, each group of inhabitants bound together about the meeting-house, near which generally rose also the school, contrived, for the regulation of affairs which interested all alike, the forms which came most handy, and these were the forms in England to so large an extent crowded out,—the Folk-mote with its accompaniments, the local self-government of the Anglo-Saxon days, revived with a faithfulness of which the colonists themselves were not at all conscious. At last in the middle of the last century, the mother country suddenly became aware that her American children had grown rich and powerful. In the great wars with France, when Louisburg, and at last Quebec, were captured, and England became mistress of the continent, the colonies furnished a great army, who marched and fought with the British regulars, and helped as much as they to the victories that were gained. Their vessels, too, were upon every sea. On the coast and in the interior, the towns, at first so feeble, were growing large and rich. "They must be looked to more closely," said the English rulers. "Their

trade must be regulated, so that England can reap an advantage from it; they must be taxed to help pay for these great wars we have been waging largely on their account," and so began the series of events that brought, in '76, the freedom of America.

At that time, in Massachusetts, then including Maine, and containing 210,000 white inhabitants, more than were found in any other American colony, there were more than two hundred towns, whose constitution is thus described by a writer of the revolutionary period:[1] "Every town is an incorporated republic. The selectmen by their own authority, or upon the application of a certain number of townsmen, issue a warrant for the calling of a town-meeting. The warrant mentions the business to be engaged in, and no other can be legally executed. The inhabitants are warned to attend; and they that are present, though not a quarter or tenth of the whole, have a right to proceed. They choose a president by the name of Moderator, who regulates the proceedings of the meeting. Each individual has an equal liberty of delivering his opinion, and is not liable to be silenced or brow-beaten by a richer or greater townsman than himself. Every freeman or free-holder gives his vote or not, and for or against, as he pleases; and each vote weighs equally, whether that of the highest or lowest inhabitant. . . . All the New England towns are on the same plan in general."

"A New England town-meeting," says E. A. Freeman, "is essentially the same thing as the Folk-mote."[2] Shall we find the Folk-mote in the other colonies? Turning first to Virginia,[3] the great representative colony of the South, as Massachusetts is of the North, in the eighteenth century we find here an ordered life, though the heterogeneous character of the

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[1] Gordon: History of Independence of U. S., I, 262.

[2] Amer. Institut. History, p. 16.

[3] John Esten Cooke: "Virginia."

colony makes the task of description a less simple one than in the case of her Northern sister. Virginia contains 173,000 whites, and 120,000 blacks. In what is called the "Tidewater-region," there appears at the top of society an aristocracy of landed proprietors, a society constituted after the model existing at the same time in England, and not at all reviving the features of the more ancient period, as was done in Massachusetts.[1] The law of primogeniture being rigidly maintained, each great estate, consisting often of thousands of acres, descends in each generation to the eldest son, his brothers and sisters being slightly portioned, if at all. There are indeed small farmers in the Tidewater-region, a class springing in part from unportioned younger sons, in part from later immigrants, who are at a disadvantage as to getting hold of the soil: this class, however, is unimportant as compared with the landed magnates, with whom lies all social prestige, and for the most part, political power.

The particular form into which society in Virginia arranges itself, is much affected by the special industry to which the colony has become almost exclusively devoted, the raising of tobacco. On the great estates the laborious process of producing the invariable crop can be most conveniently left to the hands of negroes. Everything favors the development of slavery, and slaves soon come to make up nearly half of the population. In a condition not very different from that of the slaves are the indented white servants. These are penniless immigrants, sometimes English convicts or paupers, shipped to the New World and bound out for a term of years by the government,—sometimes people of more respectable antecedents, who in return for their passage-money freely give themselves into practical serfdom. In these circumstances, labor necessarily falls into disrepute: a class of poor whites arises, descendants of those so unfortunately placed as to be unable to obtain land or of those who

[1] E. A. Freeman: Amer. Institut. Hist., p. 17.

lack energy to do so, who squat on the plantations in out-of-the-way swamps or woods, push into the wilderness as hunters and trappers, or tramp as roving vagabonds from estate to estate.

In striking contrast with Massachusetts, there is in Virginia no town-life. Norfolk, with about 7,000 people, is the only place of importance. Williamsburg has no consequence except as the point at which the House of Burgesses meets, and the seat of the College of William and Mary. The inhabitants are scattered throughout the vast counties, with no rallying-points, but the manor-houses of the planters. Of manufacturing of any kind there is no trace, and the class of honorable merchants is almost unknown. It is indispensable to each great plantation that it should be accessible from the sea, a condition easily supplied through the magnificent streams which afford paths everywhere into the interior from the Chesapeake. Each planter has his own wharf and warehouse, to which his negroes bring yearly at harvest the great tobacco-yield, while English or Yankee ships, freighted with foreign manufactures to be given in exchange, lie ready to receive it.

The typical Virginian at the middle of the eighteenth century was devoted to the English king and church. If he possessed overweening family pride, extravagance, and contempt for work, he had also the splendid virtues of a cavalier class, generosity, bravery and hospitality. He was often highly accomplished, with acquirements and graces brought from the schools of England, to which many a Virginia boy was sent; or if that opportunity were denied, the College of William and Mary was quite able to impart an elegant culture. Even the poor whites, forlorn as they were for all purposes of peaceful, well-ordered society, possessed qualities which fitted them admirably to be frontiersmen and soldiers. Many a planter could claim descent from historic stock; and sometimes, as in the case of the old Lord Fairfax, who established for himself a broad sylvan domain in the valley of the

Shenandoah, and lived there like the banished duke of "As You Like It" in the "Forest of Arden," the blood of the Virginians was of the noblest.

There was, however, another Virginia than that of the Tidewater-region. Into the valley between the Blue Ridge and the Alleghanies, and even farther west, just before the Revolution, immigrants were beginning to press. Part of them were Germans, a rill from the current which was pouring into Central Pennsylvania; part were Scotch Irish, kindred of the men who defended Londonderry against James II. These had little sympathy or share with the Old Dominion. The Germans were rigid Lutherans and thoroughly peasants; the Scotch Irish were of no higher social rank and strict Presbyterians. The cares and dangers of frontier life quite absorbed them. If their representatives were in the House of Burgesses, there is little trace of it. When the Revolution had once fairly begun, indeed, pastor Mühlenberg led his flock from the Shenandoah valley to battle for the cause of the colonies, and Daniel Morgan with his stalwart riflemen, in buckskin and fringe, stood from first to last as the very flower of the American troops, by the side of Washington; but these frontiersmen were of another spirit than their eastern neighbors.

If we contrast now the colonial life of Virginia with that of Massachusetts, we shall find some marked differences. The isolation of the great estates at the South made it out of the question for the men to come together as in the compact communities of the North; the more heterogeneous character of society in the former case, moreover, interfered with the disposition to come together. Instead, therefore, of a state made up of small democratic communities, within each one of which the men, gathered in town-meeting, governed themselves, a state came to pass the people of which had little opportunity or desire for the general discussion of public measures; care for political matters was, in the mass of men, very slight, from the fact that a class small in number almost

monopolized property and power. The territorial magnates were all-in-all. In the House of Burgesses at Williamsburg, the great planters came together and few besides. Among them, indeed, political interest was keen enough. Each had a great stake in the country; each was accustomed to power and fond of wielding it. In this aristocratic legislature the energy was great, and the spirit of freedom very manifest. The royal governors found the body often intractable; constant bickering prevailed between them and the Assembly, through which the latter learned the habit of calling into question the authority of the king, and also came to love an atmosphere of strife. Hence, when the mother-land grew arbitrary, none were more prompt than the House of Burgesses of Virginia to call the king and his ministers to account. At the outbreak of war they came quickly to the front. America took its leader from among them, and during the first years of our independence Virginia was "the mother of presidents."

In the New England Legislatures, each delegate, in no wise superior to those who sent him in wealth or position, stood for the little democracy, the Folk-mote, the town that sent him. He was not his own man except in so far as his superior ability or character made his townsmen give way to him. He was carefully instructed what course he must pursue; was liable to sharp censure if he went against the wishes of his closely-watching constituents, and each year must submit himself anew to the suffrages of his townsmen, who promptly consigned him to private life if his course had been disapproved.

There was then no Folk-mote in Virginia. In all of the thirteen colonies, as regards this proper primordial cell of a republican body politic, it existed in well-developed form only in the New England town-meeting. Of the group of Southern Colonies, while in the case of each there were peculiarities of constitution,[1] as regards the present point

[1] B. James Ramage: Local Government in South Carolina.

Virginia may be taken as the type. Nor in the Middle Colonies is the case much different. In New York the Dutch were long enough in possession to stamp upon the settlement an impress not at all democratic. Along the Hudson, the patroons, on their estates fronting sixteen miles on the river and running back indefinitely, had established a kind of feudal system, which the German settlers who came later into the valley of the Mohawk, and the waifs from all lands, who with the English occupied the neighborhood of Manhattan, did little to modify. In Pennsylvania and Maryland, the great proprietaries were subordinate monarchs beneath an English suzerainty, exercising a rule over a population containing many elements besides English, which was far from favorable to democracy. Throughout the length and breadth of the thirteen colonies then, at the time of the Revolution, New England stood alone in having restored a primitive liberty which had been superseded, her little democracies governing each itself after a fashion for which there was no precedent without going back to the Folk-mote of a remote day—to a time before the kings of England began to be arbitrary and before the people became indifferent to their birth-right.

Have New Englanders preserved their town-meeting? Thirteen million, or about one-quarter of the inhabitants of the United States, are believed to be descendants of the 21,000, who, in the dark days of Stuart domination, came from among the friends of Cromwell and Hampden, to people the North-East. In large proportion they have forsaken their old seats, following the parallels of latitude along the lakes into the great North-West, and now at length across the continent to California and Oregon. At the beginning of the century, Grayson wrote to Madison[1] that "the New Englanders are amazingly attached to their custom of planting by townships." So it has always been: wherever New Eng-

[1] Bancroft: Hist. of Constitution, I., p. 181.

landers have had power to decide as to the constitution of a forming state, it has had at the basis the township. But in the immense dilution which this element of population has constantly undergone, through the human flood from all lands, which, side by side with it, has poured into the new territories, its influence has of necessity been often greatly weakened, and the form of the township has been changed from the original pattern, seldom advantageously.[1] In New England itself, moreover, a similar cause has modified somewhat the old circumstances. While multitudes of the ancient stock have forsaken the granite hills, their places have been supplied by a Celtic race, energetic and prolific, whose teeming families throng city and village, threatening to outnumber the Yankee element, depleted as it has been by the emigration of so many of its most vigorous children. To these new-comers must be added now the French Canadians, who, following the track of their warlike ancestors down the river-valleys, have come by thousands into the manufacturing towns and into the woods, an industrious but unprogressive race, good hands in the mills and marvellously dextrous at wielding the axe. Whatever may be said of the virtues of these new-comers, and, of course, a long list could be made out for them, they have not been trained to Anglo-Saxon self-government. We have seen the origin of the Folk-mote far back in Teutonic antiquity. As established in New England, it is a revival of a most ancient thing. The institution is uncongenial to any but Teutonic men; the Irishman and Frenchman are not at home in it, and cannot accustom themselves to it, until, as the new generations come forward, they take on the characteristics of the people among whom they have come to cast their lot. At present, in most old New

[1] S. A. Galpin: Walker's Statistical Atlas of U. S., II, 10. Albert Shaw: Local Government in Illinois. E. W. Bemis: Local Government in Michigan and the North-west. E. R. L. Gould: Local Government in Pennsylvania.

England towns, we find an element of the population numbering hundreds, often thousands, who are sometimes quite inert, allowing others to decide all things for them; sometimes voting in droves in an unintelligent way as some whipper-in may direct; sometimes in unreasoning partisanship following through thick and thin a cunning demagogue, quite careless how the public welfare may suffer by his coming to the front.

Still another circumstance which threatens the Folk-mote is the multiplication of cities. When a community of moderate size which has gone forward under its town-meeting, at length increases so far as to be entitled to a city charter, the day is commonly hailed by ringing of bells and salutes of cannon. But the assuming of a city charter has been declared to be "an almost complete abnegation of practical democracy. The people cease to govern themselves; once a year they choose those who are to govern for them. Instead of the town-meeting discussions and votes, one needs now to spend only ten minutes, perhaps, in a year. No more listening to long debates about schools, roads, and bridges. One has only to drop a slip of paper, containing a list which some one has been kind enough to prepare for him, into a box, and he has done his duty as a citizen."[1] In the most favorable circumstances, the mayor and common-council, representing the citizens, do the work for them, while individuals are discharged from the somewhat burdensome, but so educating and quickening duties of the Folk-mote. As yet the way has not been discovered through which in an American city, the primordial cell of our liberty may be preserved from atrophy.

## Boston Town.

If one wishes to study the American Folk-mote, the Town-meeting, with care, he will turn then to some town of New

[1] *New York Nation:* May 29, 1866.

England. To find a town at its most characteristic stage, he will not, for reasons that have been mentioned, take it as it stands at present; nor, on the other hand, will it be well to go back to the earliest period, when things were forming. The New England town is best presented at an intermediate point when it has had time to become fully developed, and before the causes have begun to operate which have largely changed it. The period of the Revolution, in fact, is the epoch that must be selected; and the town of towns in which everything that is most distinctive appears most plainly, is Boston.

Boston was a town, governed by its Folk-mote, almost from its foundation until 1822, more than one hundred and eighty years. In 1822, when the inhabitants numbered forty thousand, it reluctantly became a city, giving up its town-meetings because they had grown so large as to be unmanageable,—the people choosing a mayor and common-council to do the public business for them, instead of doing it themselves. The records of the town of Boston, carefully preserved from the earliest times, lie open to public inspection in the office of the city-clerk. Whoever pores over these records, on the yellow paper, in the faded ink, as it came from the pens of the ancient town-clerks, will find that for the first hundred years, the freemen are occupied for the most part with their local concerns. How the famous cow-paths pass through the phases of their evolution—footway, country-lane, high-road,—until at length they become the streets and receive dignified names. What ground shall be taken for burying-places, and how it shall be fenced as the little settlement gradually covers the whole peninsula,—how the Neck, then a very consumptive looking neck, not *goitred* by a ward or two of brick and mortar-covered territory, may be protected, so that it may not be guillotined by some sharp north-easter,—what precautions shall be taken against the spread of small-pox,—who shall see to it that dirt shall not be thrown into the town-dock,—that inquiry shall be made whether

Latin may not be better taught in the public-schools,—such topics as these are considered. The town-clerks always make a particular point of describing the "visitation of the schools." The selectmen invite every year, in May, a long list, sometimes forty or fifty, comprising the great people of the Province, with any notable strangers there may be in town, to be present at the inspection. For the most part, the record is tedious and unimportant detail for a modern reader, though now and then in an address to the sovereign, or a document that implies all is not harmony between the town and royal governor, the horizon broadens a little. But soon after the middle of the eighteenth century, the record largely changes. William Cooper, at length, begins his service of forty-nine years as town-clerk, starting out in 1761, with a bold, round hand, which gradually becomes faint and tremulous as the writer descends into old age. One may well turn over the musty pages here with no slight feeling of awe, for it is the record, made at the moment, of one of the most memorable struggles of human history, that between the little town of Boston on the one hand, and George III, with all the power of England at his back, on the other.

Massachusetts was unquestionably the leader in the Revolution. "The ring-leading colony," Lord Camden called it at the time. Says the latest English writer: "The spirit driving the colonies to separation from England, a principle attracting and conglobing them into a new union among themselves,—how early did this spirit show itself in the New England colonies? It was not present in all the colonies. It was not present in Virginia; but when the colonial discontents burst into a flame, then was the moment when Virginia went over to New England, and the spirit of the Pilgrim Fathers found the power to turn the offended colonists into a new nation."[1] Lecky too declares:[2] "The Central and

[1] Professor J. R. Seeley: "The Expansion of England," pp. 154–155.
[2] Hist. of XVIIIth Century, III, p. 386.

Southern colonies long hesitated to follow New England. Massachusetts had thrown herself with fierce energy into the conflict and soon drew the other provinces in her wake." After the first year of war, indeed, the soil of New England, as compared with the Centre and South, suffered little from the scourge of hostile military occupation. Her sacrifices however did not cease. There is no way of determining how many New England militia took the field during the strife; the multitude was certainly vast. The figures, however, as regards the more regular levies have been preserved and are significant.[1] With a population comprising scarcely more than one-third of the inhabitants of the thirteen colonies, New England furnished 118,251 of the 231,791 Continental troops that figured in the war. Massachusetts alone furnished 67,907, more than one-quarter of the entire number. There resistance to British encroachment began; from thence disaffection to Britain was spread abroad. As Massachusetts led the thirteen colonies, the town of Boston led Massachusetts.[2] The ministers of George III recognized this leadership and attacked Boston first. So thoroughly did the forces of revolt centre here that the English pamphleteers, seeking to uphold the government-cause, speak sometimes not so much of Americans, or New Englanders, or, indeed, men of Massachusetts, as of Bostonians, as if it were with the people of that one little town that the fight was to be waged. Boston led the thirteen colonies. Who led the town of Boston? He certainly ought to be a memorable figure in the struggle.

At the date of the Stamp Act, 1765, the population of Boston was not far from 18,000, in vast majority of English blood; though a few families of Huguenots, like the Faneuils, the Bowdoins, the Reveres, and the Molineux, had

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[1] Hildreth, III, 441.

[2] "This province began it—I might say this town [Boston]—for here the arch-rebels formed their scheme long ago." Gen. Gage to Lord Dartmouth, quoted in Diary and Letters of Thomas Hutchinson, p. 16.

strengthened the stock by being crossed with it, and there was now and then a Scotchman or an Irishman. As the Bostonians were of one race, so in vast majority they were of one faith, Independents of Cromwell's type, though there were Episcopalians, and a few Quakers and Baptists. The town drew its life from the sea, to which all its industry was more or less closely related. Hundreds of men were afloat much of the time, captains or before the mast, leaving their wives and children in the town, but themselves on shore only at intervals, from the most enterprising voyages. Of the landsmen, a large proportion were ship-builders. The staunchest crafts that sailed slid by the dozen down the ways of the Boston yards. New England needed a great fleet, having as she did a good part of the carrying-trade of the thirteen colonies, with that of the West Indies also. Another industry less salutary was the distilling of rum; and much of this went in the ships of Boston and Newport men to the coast of Africa, to be exchanged for slaves. It was a different world from ours, and should be judged by different standards. Besides the branches mentioned, there was little manufacturing in town or country; the policy of the mother-country was to discourage colonial manufactures; everything must be made in England, the colonies being chiefly valuable from the selfish consideration that they could be made to afford a profitable market for the goods. In the interior, therefore, the people were all farmers, bringing their produce to Boston, and taking thence when they went home such English goods as they needed. Hence the town was a great mart. The merchants were numerous and rich; the distilleries fumed; the shipyards rattled; the busy ships went in and out, and the country people flocked in to the centre.

Though Boston lost before the Revolution the distinction of being the largest town in America, it remained the intellectual head of the country. Its common-schools gave every child a good education, and Harvard College, scarcely out of sight, and practically a Boston institution, gave a training

hardly inferior to that of the European universities of the day. At the bottom of the social scale were the negro slaves. The newspapers have many advertisements of slaves for sale, and of runaways sought by their masters. Slavery, however, was far on the wane, and soon after the Revolution became extinguished. The negroes were for the most part servants in families, not workmen at trades, and so exercised little influence in the way of bringing labor into disrepute.

As the slaves were at the bottom, so at the top of society were the ministers, men often of fine force, ability, and education. No other such career as the ministry afforded was open in those days to ambitious men. Year by year the best men of each Cambridge class went into the ministry, and the best of them were sifted out for the Boston pulpit. Jonathan Mayhew, Andrew Eliot, Samuel Cooper, Charles Chauncey, Mather Byles,—all were characters of mark, true to the Puritan standards, generally, as regards faith, eloquent in their office, friends and advisers of the political leaders, themselves often political leaders, foremost in the public meetings, and active in private. Usually these ministers were grave men, the traditions of the Province imposing upon them a severity of deportment which would seem to us harsh; but they had a genial side which ought not to be overlooked. "Don't you recollect," writes John Adams to his wife, recalling a reminiscence of a small-pox scare,[1] "Dr. Byles' benediction to me when I was inoculated? I lay lolling on my bed with half a dozen young fellows as lazy as myself, all waiting and wishing for symptoms and eruptions, when all of a sudden appeared at the door the reverend Doctor with his rosy face, many-curled wig, and pontifical air and gait. Says he: 'The clergy of this town ought, upon this occasion, to adopt the benediction of the Romish clergy, and when we enter the apartment of the sick, to say in the foreign pronunciation, "Pax tecum!"' These words are spoken by for-

[1] Philadelphia, Aug. 25, 1776. Adams told this same story to young Josiah Quincy in 1821. "Figures of the Past," p. 70.

eigners as the doctor pronounced them, Pox take 'em!" It is a pleasant tradition, too, that has been handed down of this merry old Tory, that when he was put under guard by the patriots, finding that the sentinel, a simple bumpkin, wished to go away, Dr. Byles kindly offered to pace the beat for him; whereupon the soldier gave up musket and accoutrements, and the doctor tramped back and forth with his piece at the shoulder, serenely nodding to Whig and Tory, as he kept guard over himself. Nor is Dr. Byles the hero of all the good stories that have come down of the revolutionary parsons.

"Scip," said Dr. Chauncey to his old negro, turning testily from the writing of a sermon, "What do you want?" "Want a new coat, Massa." "Well, ask Mrs. Chauncey to give you an old one of mine." "Nebber do in de world, Massa, for old Scip to wear a black coat. If I go walking on de Neck Saturday, Dr. Cooper ask me to preach for him, sure." The doctor burst into a laugh, told Scip he might have a coat of all the colors of the rainbow, and went straight out, with cocked hat and gold-headed cane, to tell the joke at the expense of his neighbor, who had the reputation of being rather indiscriminate in his invitations.[1]

Together with the ministers, the merchants were a class of influence. Nothing could be bolder than the spirit in those days of Boston commerce. In ships built at the yards of the town, the Yankee crews went everywhere through the world. Timber, tobacco, tar, rice, from the Southern colonies, wheat from Maryland, sugar and molasses from the West Indies, sought the markets of the world in New England craft. The laws of trade were complicated and oppressive; but every skipper was more or less a smuggler, and knew well how to brave or evade authority. Wealth flowed fast into the pockets of the Boston merchants, who built and furnished fine mansions, walked King Street in gold lace and

[1] Tudor's Life of Otis, p. 449.

fine ruffles, or sat at home, as John Hancock is described, in "a red velvet cap, within which was one of fine linen, the edge of this turned up over the velvet one two or three inches. He wore a blue damask gown lined with silk, a white plaited stock, a white silk embroidered waistcoat, black silk small-clothes, white silk stockings, and red morocco slippers." It is all still made real to us in the superb portraits of Copley,—the merchants sitting in their carved chairs, while a chart of distant seas unrolled on the table, or a glimpse through a richly curtained window at the back, at a busy wharf or a craft under full sail, hints at the employment that has lifted the men to wealth and consequence.

Below the merchants, the class of workmen formed a body most energetic. Dealing with the tough oak that was to be shaped into storm-defying hulls, twisting the cordage that must stand the strain of arctic ice and tropic hurricane, forging anchors that must hold off the lee-shores of all tempestuous seas,—this was work to bring out vigor of muscle, and also of mind and temper. The caulkers were bold politicians, and have given perhaps to political nomenclature one of the best known terms. The rope-walk hands were energetic to turbulence, courting the brawls with the soldiers which led to the Boston massacre. It must be said, too, that the taverns throve. New England rum was very plentiful, the cargo of many a ship that passed the "Outer Light," of many a townsman and high private who came to harsh words and, perhaps, fisticuffs in Pudding Lane or Dock Square. The prevailing tone of the town, however, was decent and grave. The churches were thronged on Sundays and at Thursday lecture as they have not been since. All classes were readers; the book-sellers fill whole columns in the newspapers with their lists; there are books on sale and in the circulating libraries, the best then being in all departments of literature. The five newspapers the people may be said to have edited themselves. Instead of the impersonal articles of a modern journal, the space in a sheet of the Revolution, after the news

and advertisements, was occupied by letters, in which "A Chatterer," "A. Z.," or more often some classic character, "Sagittarius," "Vindex," "Philanthrop," "Valerius Poplicola," "Nov-Anglus," or "Massachusettensis," belabors Whig or Tory, according to his own stripe of politics,—the champion sometimes appearing in a rather Chinese fashion, stilted up on high rhetorical soles, and padded out with pompous period and excessive classic allusion, but often terse, bold, and well-armed from the arsenals of the best political thinkers.

Of course the Folk-mote of such a town as this would have spirit and interest. Wrote a Tory in those days:[1] "The town-meeting at Boston is the hot-bed of sedition. It is there that all their dangerous insurrections are engendered; it is there that the flame of discord and rebellion was first lighted up and disseminated over the provinces; it is therefore greatly to be wished that Parliament may rescue the loyal inhabitants of that town and province from the merciless hand of an ignorant mob, led on and inflamed by self-interested and profligate men." Have more interesting assemblies ever taken place in the history of the world than the Boston town-meetings? Out of them grew the independence of the United States, and what more important event has ever occurred?

The great administration of Pitt had come to an end. France was, and deserved to be, at his feet in disgrace. Canada was lost to the fleur-de-lis; the iron cross from the market-place of Louisburg had come as a trophy to New England, to this day, above the door of the Harvard library, the evidence of the good service the provincials had done. They had aided well the great minister, and the young general who went down in the death-grapple with Montcalm. England was loaded with glory, but also with debt. "No more than

[1] "Sagittarius," quoted by Frothingham: "Sam. Adams' Regiments," *Atlantic Monthly*, Nov. 1863.

fair," said the ministers, and with justice, "that the colonists, who derive much advantage from this, should help pay the debt." So Parliament, with little thought, passed the Stamp Act, that every document of a nature at all formal, every deed, receipt, commission, should have on the corner a certain stamp, to be bought for a few pence of the government. In all probability the colonies could have been brought to pay handsomely, if they had been left to their own free action. The vote in Parliament was taken late at night; the benches were thin; the few members present yawning for bed, glad to dispose of the small affair and finish the session, no one apparently aware that the act was critical. It has been called one of the most momentous legislative acts that ever took place. James Otis was the man who, now that Parliament forgot, stood up to remind it of an old privilege of Englishmen. "No taxation without representation," he said. "America has no representative in Parliament; you cannot legally tax us without our consent." That became presently the cry throughout the thirteen colonies; and, in the mother-country itself, no smaller men than the magnificent Pitt, Lord Camden, the first of English lawyers, and Barre, the comrade of Wolfe, said that the colonists were quite right. But the king, the ministers, and a majority of Parliament declared that all antiquated and superseded. "Leeds, Birmingham, Manchester, three-fourths of England, indeed, had no representatives in Parliament, yet they were taxed. How forth-putting for that inferior class of people, our colonists, to set up a cry over a state of things with which Englishmen were satisfied! If there was no formal representation, they were virtually represented." "There is no such thing," said the Boston leaders, "as virtual representation. If Leeds, Birmingham, Manchester, and other great cities are not represented, they ought to be. Either let us send representatives to Parliament, or let our Assemblies tax us." "I rejoice that America has resisted," thundered the wonderful Pitt. "Six millions of freemen so dead to all feelings of liberty as volun-

tarily to submit to be slaves, would be fit instruments to make slaves of the rest." As he spoke America took courage to do what otherwise she would scarcely have ventured upon. The voice of the most powerful of subjects shook all England also. The king, however, was the very type of set purpose; the House of Lords stood at his side almost to a man; in the Commons, the servile, corrupt majority were the "king's friends;" so that although the Stamp Act, for expediency's sake, was repealed, Parliament accompanied the repeal with a Declaratory Act, that it was competent to legislate for the colonies in all cases whatsoever.

When this determination was announced, James Otis, who, from leader in Boston town-meetings, had become conspicuous in the Assembly, thought it right to yield. It is wrong, he said, the ground taken by the Declaratory Act, but we must submit to what Parliament ordains; but others were coming to the front of clearer views and stronger determination. Presently from the Massachusetts Assembly came a statement of what were felt to be the colonial rights, in which the old claim, "No taxation without representation," was reasserted, and a step or two taken in advance of that position. It was, indeed, hinted, and not obscurely, that the claim of Parliament to a right to legislate for the colonies was wrong in other respects besides matters of taxation; that each colony, while owing allegiance to the King, like all parts of the British empire, had yet, in its General Court, a parliament of its own, and that the Lords and Commons at Westminster were utterly without jurisdiction beyond the sea. Presently after this the Massachusetts Assembly caused to be prepared a "Circular Letter," to be sent to the legislatures of the other colonies, in which the ground taken was explained, with the reasons for it, and an invitation conveyed to each colony in turn, to state in reply what seemed to it reasonable in the matter. In England, Parliament promptly condemned the course of Massachusetts, demanding that the Assembly should rescind the "Circular Letter," a demand which the Assembly

met at once by a refusal, the vote standing 92 to 17. Parliament, carrying out the principles of the Declaratory Act, laid taxes upon glass, paper, paints, and tea; that the collection might certainly be enforced, and the rising spirit of discontent in Boston be effectually checked, ships of war were stationed in the harbor, and the 14th and 29th regiments established in the town.

The discontent was by no means confined to Massachusetts. Connecticut, Rhode Island, and New Hampshire, closely dependent, took their tone from her. In New York was a party prepared to go all lengths with the most strenuous, step for step; there was a party, too, better placed as regards wealth and position, the rich merchants, the Episcopalians generally, the holders of the great feudal estates, the Dutch farmers and recent German settlers, who were either actively loyal to the crown or quite apathetic. In Pennsylvania, there were strong opposers of the English policy, whose leading representative, now that Franklin was absent in England, was John Dickinson, very famous through the "Farmer's Letters," well reasoned papers in which was given a popular explanation of the unconstitutionality of government acts; the powerful sect of Quakers, however, as the trouble deepened, set themselves against resistance to the powers that were, and the Germans felt little interest. Passing to the South, Virginia was all alive. The aristocracy of great tobacco-planters, who held the power, full of vigor and trained to struggle in the long-continued disputes with different royal governors, stood most stubbornly against British encroachment. The colony was far enough from democracy; the large class of poor landless whites had scarcely more interest in politics than the slaves; but the House of Burgesses understood well the championship of American privileges, and was prepared to second, even once or twice to anticipate, Massachusetts in measures of opposition. Influenced in the early day by Patrick Henry, Richard Henry Lee, and Dabney Carr, it was sometimes in advance of the northern province, and a

little later, when Washington, Jefferson, and Madison came forward, it stood certainly foremost. In South Carolina, too, was a party headed by Christopher Gadsden, prepared to take the most advanced ground.

In the preliminary years, however, Massachusetts was very plainly before all others, according to the view both of America and England. If sometimes another province was in advance in taking a bold step, it was perhaps due to the management of the skilful Massachusetts statesmen, who, for reasons of policy, held in check their own Assembly, that local pride elsewhere might be conciliated, and America, generally, be brought to present an unbroken front.

## "Sam Adams."

It is time now to take a look at the Massachusetts leaders, Boston men with two or three exceptions. On the government side, the foremost champions in these preliminary years were the two royal governors, Francis Bernard, and his successor Thomas Hutchinson. These men have had hard measure in history. In the heat of the battle the patriots could see nothing good in them; the cause they fought for was lost; their enemies having triumphed, handed their names down to obloquy, and few have cared to attempt any vindication. Avoiding all eulogy, it is only just to say as to Bernard, that he was a man respectable in ability and character, who, with fair motives enough, upheld the royal side honestly and energetically against the great majority of the Province. He was an English gentleman, with an Oxford education. His tastes and accomplishments were scholarly; his political ideas were those universally held by the class to which he belonged. Lord Camden said of Bernard in a discussion with Lord Mansfield: "This great, good, and sensible man, of all the governors on the continent, had pointed out the inconvenience of the Stamp Act." He was always opposed to it and

strongly urged its repeal.[1] Botta, too, paints his character in glowing terms.[2]

Hutchinson, also, at the outset of the difficulties, occupied liberal ground.[3] His case in particular at this late day may be kindly considered. He came to the leadership upon Bernard's retirement in 1769. Puritan in faith and in the decorum of his life, he was for many years the best known and most honored son of Massachusetts. He prepared a history of the Province which has still the highest authority. Coming young into public life, he won at once extraordinary confidence. He was early in the Assembly and soon its speaker. He went quickly into the council or upper house of the legislature, became agent of the colony in England, judge of probate, chief-justice, lieutenant-governor, and governor. Much of the time he held several important offices at once. In private life his character was blameless; in public life, his course found thorough approval until the date of the Stamp Act. It was easy enough in those days for a man to take the government rather than the popular side. The lengths to which the patriot leaders presently went seemed to Hutchinson improper and disastrous, and as the controversy grew bitter, he was forced into positions which, probably, he would not have taken in a calmer time. Generally, in his championship of the Tory cause, he showed a courage, ability, and persistency quite admirable. He hoped, no doubt, for advancement for himself and his sons, stood in some awe, natural enough in a colonist, before the king and English nobles, came to feel personal hatred for the men who opposed him, so that he could no more do them justice than they him. These were human limitations; his battle had much manfulness. When afterwards he went to England, and after a few homesick years died at last a forlorn exile,

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[1] Drake's Boston, p. 723.

[2] Botta, Hist. of War of Independ., I, 112.

[3] Manuscript letter, Nov. 13, 1773, Mass. Archives.

mortified and disappointed, he left in America the reputation of having been the evil genius of his country. A candid student, brushing aside prejudices, is forced to regard Hutchinson as one of the most unfortunate characters of our history, and feel that there is much pathos in his story.[1]

We must now bring upon our stage quite a different figure. The splendid Otis, whose leadership was at first unquestioned, who had only to enter Boston town-meeting to call forth shouts and clapping of hands, and who had equal authority in the Assembly, as early as 1770, was fast sinking into insanity. In spite of fits of unreasonable violence and absurd folly, vacillations between extremes of subserviency and audacious resistance, his influence with the people long remained. He was like the huge cannon on the man-of-war, in Victor Hugo's story, that had broken from its moorings in the storm, and become a terror to those whom it formerly defended. He was indeed a great gun, from whom in the time of the Stamp Act had been sent the most powerful bolts against unconstitutional oppression. With lashings parted, however, as the storm grew violent, he plunged dangerously from side to side, almost sinking the ship, all the more an object of dread from the calibre that had once made him so serviceable. It was a melancholy sight, and yet a great relief, when his friends saw him at last bound hand and foot, and carried into retirement.

But New England had been prolific of children fitted for the time. There were John Scollay, Benjamin Kent, William Molineux, William Phillips, John Pitts, Paul Revere, —plain citizens, merchants, mechanics, selectmen of the town,

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[1] As this monograph is in press, appears "The Diary and Letters of Thomas Hutchinson," a selection from his unpublished manuscripts, edited by his great-grandson. The book is full of interesting materials, and will cause a new estimate to be put upon the character and career of the unfortunate governor. We are, perhaps, in danger of running to the other extreme. See "Governor Thomas Hutchinson," by George E. Ellis, in *Atlantic*, for May, 1884.

deacons in the churches, cool heads, well-to-do, persistent, courageous, sturdy wheel-horses for the occasion. Of a higher order were the wise and faithful James Bowdoin, the able Joseph Hawley of Northampton, young men like John Hancock, Josiah Quincy, Joseph Warren, John Adams, men of wealth or spirited ability, who had, like Otis, some of them, a gift of eloquence to set hearts on fire, some of them executive power, some of them cunning to lay trains and supply the flash in proper time. It was a wonderful group. But Bowdoin was sometimes inert; Hawley was unreliable through a strange moodiness; Hancock hampered by foibles that sometimes quite cancelled his merits; Quincy, who died when scarcely past his youth, like a youth was sometimes fickle, ready to temporize when to falter was destruction; again in unwise fervor counselling assassination as a proper expedient. Warren, too, could rush into extremes of ferocity, wishing he might wade to the knees in blood; while John Adams showed only an intermittent zeal in the public cause until all the preliminary work was done.

There was need of a man in this group, of sufficient ascendency through intellect and character to win deference from all—wise enough to see always the supreme end, what each instrument was fit for, and to bring all forces to bear in the right way—a man of consummate tact, to sail in torpedo-sown waters without an explosion, though conducting wires of local prejudice, class-sensitiveness, and personal foible on every hand, led straight down to magazines of wrath which might shatter the cause in a moment,—a man of resources of his own to such an extent that he could supplement from himself what was wanting in others, always awake though others might want to sleep,—always at work though others might be tired,—a man devoted, without thought of personal gain or fame, simply and solely to the public cause. Such a man there was, and his name was Samuel Adams. His early career had not been promising. In private affairs he had quite failed of success, winning nothing for himself, and los-

ing the patrimony that had descended to him. In public affairs he had been for nine years a tax-collector, had failed to obtain the money, was largely in arrears, and had been in danger of prosecution. The town, however, knew that "Sam Adams'" deficiency was owing to hard times largely, which made the people slow of payment; if he had failed to press us as he might have done it was partly due to his humanity, partly to his absorption in other directions. He was a ruling spirit in the clubs and in town-meeting, a constant writer of political articles for the newspapers, a deep student of all books relating to the science of government. It was early known that when public documents requiring special care were needed in town or Assembly, "Sam Adams" had a fund of facts and ideas, and a knack of putting things, that made his help valuable. His poverty and reputation for business incapacity kept him back so that while much younger men became distinguished, it was not until he was forty-two that he came forward prominently. Then, in the year 1764, he was appointed by Boston town-meeting to prepare instructions for their newly-elected representatives. The year following Samuel Adams began, as a member of the Assembly, a career of public service almost uninterrupted, until in late old age his faculties became broken.

In character and career he was a singular combination of things incongruous. He was in religion the narrowest of Puritans, but in manner very genial. He was perfectly rigid in his opinions, but in his expression of them often very compliant. He was the most conservative of men, but was regarded as were the "abolition fanatics," in our time, before the emancipation proclamation. His uprightness was inflexible, yet a wilier fox than he in all matters of political manœuvering, our history does not show. He had in business no push or foresight, but in politics was a wonder of force and shrewdness. He expressed opinions, whose audacity would have brought him at once to the halter if he could have been seized, in a voice full of trembling.

Even in his young manhood, his hair had become grey and his hand shook as if with paralysis; but he lived to his eighty-second year, his work rarely interrupted by sickness, serving as governor of Massachusetts for several successive terms after he had passed his three score and ten, almost the last survivor among the great pre-revolutionary figures.

Bancroft has spoken of Samuel Adams as more than any other man, "the type and representative of the New England town-meeting."[1] Boston, as we have seen, is the largest community that ever maintained the town organization, probably the most generally able and intelligent. No other town ever played so conspicuous a part in connection with important events. It led Massachusetts, New England, the thirteen colonies, in the struggle for independence. Probably in the whole history of the Anglo-Saxon race, there has been no other so interesting manifestation of the activity of the Folk-mote. Of this town of towns, Samuel Adams was the son of sons. He was strangely identified with it always. He was trained in Boston schools and Harvard College. He never left the town except on the town's errands or those of the province of which it was the head. He had no private business after the first years of his manhood, was the public servant simply and solely in places large and small,—fire-ward, committee to see that chimneys were safe, tax-collector, moderator of town-meeting, representative, congressman, governor. One may almost call him the creature of the town-meeting. His development took place on the floor of Faneuil Hall and the Old South, from the time when he looked on as a wondering boy to the time when he stood there as the master figure; and such a master of the methods by which a town-meeting may be swayed, the world has never seen. On the best of terms with the people,—the workmen of the ship-yards, the distillers (he had himself tried to be a brewer), the merchants—he knew always precisely what springs to touch.

[1] In a private conversation with the writer; also Hist. of Const., II., 260.

He was the prince of canvassers, the very king of the caucus, of which his father was the inventor. He was not a great orator. Always clear-headed in the most confusing turmoil, he had ever at command a simple, convincing style of speech effective with plain men; and when a fire burned for which he could not trust himself, he could rely on the magnificent speech of Otis, or Quincy, or Warren, who poured their copious words, often quite unconscious that cunning "Sam Adams" really managed his men and was directing the stream. His ascendency was quite extraordinary and no less marked over men of ability than over ordinary minds. "Master of the Puppets," is one of the many expressions applied to him by Hutchinson to denote the completeness of his leadership.[1] As often Samuel Adams' followers did not know that they were being led, so, possibly, he failed himself to see, sometimes, that he was leading, believing himself to be the mere agent of the will of the great people which decided this way or that. At any rate, for the democracy of the town-meeting he never had any feeling but reverence. So far as his New Englanders were concerned "Vox populi" was always with him "Vox Dei." His first conspicuous act was to serve as a channel to that voice in 1764, instructing in behalf of the town the representatives; to that voice he was always ready himself to defer. In his old age, when he was hesitating whether or no to approve the Federal Constitution which he thought might remove, to a dangerous degree, the power from the people to a central authority, shrewd men knew how to manage the manager. A meeting of Boston mechanics was contrived, which endorsed the constitution; the result was made known to Samuel Adams by a committee of plain men with Paul Revere at their head, after which he hesitated no longer. While many of the best men of New England, after the peace, became Federalists, favoring sometimes the establishment of a monarchy and an order of nobility, Samuel Adams

[1] From manuscript letter, July 10, '73, in Mass. Archives.

stood sturdily for a democracy, perhaps too decentralized. He carried to an extreme his dislike of delegated power. When, in 1784, Boston, grown unwieldy, agitated the question of establishing a city-government, the people, instead of transacting their own affairs, committing them to the management of a mayor and representative councilmen, Samuel Adams, chairman of the town's committee to report on the defects of the town organization, reported that "there were no defects,"[1] and in his time there was no change.

We are accustomed to call Washington the "Father of his Country." It would be useless to dispute his right to the title; he and no other will bear it through all the ages. He established our country's freedom with the sword, then guided its course during the first critical years of its independent existence. No one can know the figure without feeling how real is its greatness. It is impossible to see how without Washington the nation could have ever been. But after all, is "Father of America" the best title for Washington? Where and what was Washington during those long preliminary years when the nation was shaping as the bones do grow in the womb of her that is with child? A quiet planter, who in youth as a surveyor had come to know the woods, who in his young manhood had led bodies of provincials with some efficiency in certain unsuccessful military expeditions, who in maturity had sat, for the most part in silence, among his active colleagues in the House of Burgesses, with scarcely a suggestion to make in all the sharp debate while the new nation was shaping. There is another character in our history to whom was once given the title "Father of America"—a man to a large extent forgotten, his reputation overlaid by those who followed him,—no other than this man of the Town-meeting, Samuel Adams. As far as the *genesis* of America is concerned, Samuel Adams can more properly be called the "Father of our Country"

[1] Boston Town Records, Nov. 9, 1785.

than Washington. He is, at any rate, second only to Washington in the story of the Revolution.[1]

Those instructions to the Boston representatives in 1764, in which Samuel Adams spoke for the town, emerging then, at the age of forty-two, into the public life where he remained to the end, contain the first suggestion ever made in America for a meeting of the colonies, looking toward a resistance to British encroachments. From that paper came the "Stamp Act Congress." In the years which immediately followed, being at length in the Assembly, he soon rose to the leading position, superseding James Otis, who gradually sank under mental disease. While the cotemporaries of Samuel Adams rejoiced over the repeal of the Stamp Act, he saw in the declaration of Parliament by which it was accompanied, that it was competent to legislate for the colonies in all cases whatsoever, plain evidence that more trouble was in store, and was the most influential among the few who strove to prevent a disastrous supineness among the people. From this time forward the substantial authorship of almost every state paper of importance in Massachusetts can be traced to him. Very noticeably, he was the author of the "Circular Letter" in 1768,[2] by which the colonies in general were roused, and the way for union prepared. From that year on, he saw no satisfactory issue from the dispute but in the independence of America, and began to labor for it with all his energy. It had been a dream with many, indeed, that some time there was to be a great independent empire in this western world; but no public man saw so soon as Samuel Adams, that in the latter half of the eighteenth century the time for it had come,

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[1] "A man whom Plutarch, if he had only lived late enough, would have delighted to include in his gallery of worthies, a man who in the history of the American Revolution is second only to Washington, Samuel Adams." —John Fiske: (taken from his forthcoming "History of the American People" by kind permission of the author).

[2] Satisfactorily established in Wells' Life of S. Adams, I., 172.

and that to work for it was the duty of all patriots.[1] One might pass in review the great figures of our revolutionary epoch, one by one, and show that then, seven years before the declaration of independence, there was not a man except Samuel Adams, who looked forward to it and worked for it. The world generally had not conceived of the attainment of independence as a present possibility. Those who came to think it possible, like Franklin, Dickinson of Pennsylvania, and James Otis, shrunk from the idea as involving calamity, and only tried to secure a better regulated dependence. As late as 1775, the idea of separation, according to Jefferson, had "never yet entered into any person's mind."[2] It was well-known, however, in Massachusetts what were the opinions of Samuel Adams. He was isolated even in the group that most closely surrounded him. Even so trusty a follower and attached a friend as Joseph Warren could not stand with him here. What Garrison was to the abolition of slavery, was Samuel Adams to independence,—a man looked on with the greatest dread as an extremist and fanatic by many of those who afterwards fought for freedom, down almost to that very day, July 4th, 1776, when largely through his skilful and tireless management, as he worked

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[1] July 1st, 1774, Hutchinson, having just reached London, was hurried by Lord Dartmouth into the presence of the king without being allowed time to change his clothes after the voyage. A conversation of two hours took place, the king showing the utmost eagerness to find out the truth as to America. While answering the king's inquiries concerning the popular leaders, Hutchinson remarked that Samuel Adams was regarded "as the opposer of Government and a sort of Wilkes in New England.

"*King:* What gives him his importance?

"*Hutchinson:* A great pretended zeal for liberty and a most inflexible natural temper. He was the first that publicly asserted the independency of the colonies upon the kingdom." Diary and Letters of Thos. Hutchinson, p. 167.

The testimony of Hutchinson is often referred to, because, as a man of judgment, himself in the thick of the fight, and in relations of bitter hostility to Samuel Adams, his evidence as to Samuel Adams' importance has a special value.

[2] Cooke's Virginia: p. 375.

the wires in his subtle way, the Congress which he had had so large an influence in bringing into being, came at last to stand upon his ground.

In public documents which he drafted, indeed, he distinctly and repeatedly disclaimed all thought of a severance, and was loudly charged by Hutchinson and others with shameful duplicity, since his private utterances were often of a different tenor. If he had cared to defend his consistency, he would have declared, no doubt, that when he was acting simply as the mouth-piece of a body, few or none of whom had reached his position, he must use other language than when speaking for himself. Such a defence is not altogether satisfactory. It is a still harder task to justify the conduct of the group of which he was the controlling mind, in the matter of the famous letters which were sent from England to America, by Franklin, then the Massachusetts agent, in 1773. The letters were private, written by men in high position in the Province to English friends, and were obtained by Franklin in a way only recently explained.[1] They were sent to America on the express condition that no copies were to be made; this, however, was evaded by the leaders, who finally published them broadcast, but not until the public mind had been prepared in a way which was certainly marvellously artful. The letters of Hutchinson in the collection are mild enough in their temper, and certainly not out of harmony with his well-known views. They were made, however, to produce against him the strongest possible resentment. Aggravated horror over their contents was expressed before their publication, to affect the public view. Some sentences were falsely construed, others garbled and disjointed. Hutchinson declares his letters are the most innocent things in the world, "but if it had been 'Chevy Chace,' the leaders are so adroit they would have made the people believe it was full of evil and treason."[2]

[1] See Proc. Mass. Hist. Soc., Feb. and March, 1878.

[2] Manuscript letter in Mass. Archives, July 10, 1773.

Samuel Adams' complicity in the affair is quite certain, and it is hard to reconcile the thing with any principle of fair dealing. The whole transaction has a questionable color, and though patriotic historians and biographers have been able to see nothing in it, except, so to speak, a dove-like iridescence, an unprejudiced judge will detect the scaly gleam of a creature in better repute for wisdom than for harmlessness. The fact was, Hutchinson and Samuel Adams were such thoroughly good haters of one another that Dr. Johnson might have folded them both to his burly breast in an ecstasy. By some casuistry or other, the Puritan politician, upright though he was, made crooked treatment of his Tory *bête noir* square with his sense of right. He would fight the devil with fire, rather than run any risks.

"His chief dependence," wrote Hutchinson, "is upon Boston town-meeting, where he originates the measures which are followed by the rest of the towns, and, of course, are adopted or justified by the Assembly." It will be interesting to look at two or three of these town-meetings, illustrating, as they do so clearly, the methods and character of the man. The first days of March, 1770, are very memorable in the history of the Town-meeting. The snow in King street lay stained with the blood of Boston people, shed by soldiers of the 29th regiment. "The troops must go!" said the town. "They shall stay!" said King George, through his deputies, and the question was, which side should yield. Hutchinson, chief-magistrate, had shown the best nerve and judgment at the time of the 'Massacre,' by calm words from the east balcony of the Old State House, averting a bloody battle, even when the alarm-bells were summoning the frantic citizens, and on the other side, the soldiers were kneeling in their ranks ready for street firing. Out of the tumult the usual quiet and decorum were appearing. The selectmen had drawn up the warrant, which the constables of the different wards had posted in due form. The Folk-mote, swelling beyond the dimensions of Faneuil Hall, had flowed over to the Old

South, the path of the crowd thitherward crossing the blood-stains where the victims had weltered; now, in the meeting-house and the street outside, they waited sullenly but in order.

In the council-chamber in the Old State House, Hutchinson, surrounded by his twenty-eight councillors and the commanders of the troops and the fleet, the former in wigs and scarlet robes of office, the latter in uniform, looked out on the crowd as they passed by to the Old South, and recalled the way in which, in the preceding century, the town had handled Sir Edmund Andros. The imposing portraits of Charles II. and James II. from the wall seemed to shed an influence upon the company to make them strong in maintaining the royal prerogative.

On the people's side, the central figure, as always in those days, is Samuel Adams. Not at all that he is the most conspicuous; he is neither selectman nor moderator; he is not chairman of the committee which the town appoints to bear its message to the lieutenant-governor. As is generally the case, others are in the foreground, while matters rest upon him. All is in order according to the time-consecrated Anglo-Saxon traditions. Samuel Adams has addressed the people in his direct, earnest way, and now, as a simple member of the committee, behind Hancock, the elegant chairman, he goes with the rest to demand of Hutchinson the removal of the troops. The crisis has come: now, in the moment of collision, the gilded figure-head is taken in out of danger, and "a wedge of steel"[1] is thrust out to bear the brunt of the impact. As spokesman of the town, Samuel Adams demands the removal of the troops. Hutchinson is not a coward. Though it is declared that authority to remove the troops rests only with

[1] Excellent John Adams found the legitimate resources of rhetoric quite inadequate for the expression of his admiration for his kinsman. "He was," he says, "the wedge of steel which split the knot of *lignum vitae* that tied America to England."

Gage at New York, the ranking officer, Dalrymple, agrees that the 29th regiment shall go down the harbor to the Castle; the 14th, however, must remain. The committee is given to understand that this answer must end the matter, and with it they return to the town-meeting. They go forth from the south door of the Old State House, Samuel Adams the soul of the group. Though the March air is keen, he bares his head; he is but 48, but his hair is already grey, and a tremor of the head and hands helps to give his figure as he walks a certain venerableness. "Both regiments or none!" "Both regiments or none!" he is heard to say to the men on this side and that, as the crowd in the street press back to make a lane by which the committee can pass. When presently, before the moderator, the reply of Hutchinson is reported, the significance of the words spoken to the crowd appears. "Both regiments or none!" from the right; "Both regiments or none!" from the left. The town has caught from the "Chief Incendiary" the watch-word; it is uttered by every voice. It is formally voted that both regiments must go, and Samuel Adams, with his supporting group, is presently once more in the council-chamber to speak the peremptory message. There is hurried consultation, attempt at evasion, a plea of powerlessness to execute the popular requirement. But focussed in the dark blue eye of Samuel Adams is the determination of all the freemen of the Province. The responsibility is forced upon the magistrate which he seeks to avoid. The promise is wrung from the unwilling lips that both regiments shall forthwith go, to be known in history henceforth as the "Sam Adams regiments;" and so, under the master's guidance, the whole power of the king, as was said at the time in England, was successfully bullied. It is rarely enough that one can find any trace of boastfulness in the words of Samuel Adams, but writing of the encounter with Hutchinson to Warren, in the following year, there is a touch of exultation in the words: "If fancy deceived me not,

I observed his knees to tremble. I thought I saw his face grow pale, and I enjoyed the sight."[1]

Less dramatic, but far more memorable than his management of the expulsion of the regiments, was the banding together of the Massachusetts towns through Samuel Adams, by means of the "Committees of Correspondence." This was his almost unaided work,[2] and no act of his career shows to better advantage his far-seeing statesmanship. The most clear-sighted of the Tories failed entirely to detect the portent of the scheme until it was accomplished; while of the patriots, scarcely one of prominence stood by Samuel Adams, in bringing the measure to pass, or took part cordially, until a late period, in carrying out the plan. Three weeks passed before he could procure a town-meeting for the initiation of his idea, during which three petitions signed by freeholders were presented. On November 2, 1772, at length Samuel Adams vanquished the sluggishness of his friends. The town-meeting in which the matter came to vote was small; the measure was earnestly debated, not coming to a decision until late at night. Characteristically, Samuel Adams took for himself a second place on the Committee, giving the chairmanship to James Otis, who now in a short interval of sanity, rendered his last service to the community of which he had been the idol. Samuel Adams was appointed to draft a statement of the rights of the colonists "as men, as christians, and as subjects;" Joseph Warren, who was fast rising to the position of his ablest and trustiest lieutenant, drew up a "List of Grievances;" and Dr. Benjamin Church, a man who began brilliantly and usefully, but made a traitor's end, prepared a letter to the towns. Samuel Adams' statement is substantially an anticipation of the Declaration of Independence.

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[1] Hutchinson attributes the result to the weakness of Col. Dalrymple. "He brought it all upon himself by his offer to remove one of the regiments." Diary and Letters, p. 80.

[2] Settled satisfactorily in Wells' Life of S. Adams, I., 509.

In the last days of 1772, the document, having been printed, was transmitted to those for whom it had been intended, producing at once an immense effect. The towns almost unanimously appointed similar committees; from every quarter came replies in which the sentiments of Samuel Adams were echoed. In the library of Bancroft is a volume of manuscripts worn and stained by time which have an interest scarcely inferior to that possessed by the "Declaration of Independence" itself, as the fading page hangs against its pillar in the library of the State Department at Washington. They are the original replies sent by the Massachusetts towns to Samuel Adams' Committee sitting in Faneuil Hall, during those first months of 1773. One may well read them with bated breath, for it is the touch of the elbow as the stout little democracies dress up into line, just before they plunge in at Concord and Bunker-Hill. There is sometimes a noble scorn of the restraints of orthography, as of the despotism of Great Britain, in the work of the old town clerks, for they generally were secretaries of the committees; and once in a while a touch of Dogberry's quaintness, as the punctilious officials, though not always "putting God first," yet take pains that there shall be no mistake as to their piety, by making every letter in the name of the Deity a rounded capital; yet the documents ought to inspire the deepest reverence. It is the highest mark the town-meeting has ever touched. Never before and never since have Anglo-Saxon men, in lawful Folk-mote assembled, given utterance to thoughts and feelings so fine in themselves and so pregnant with great events. To each letter stand affixed the names of the committee in autograph. This awkward scrawl was made by the rough fist of a Cape Ann fisherman, on shore for the day to do at town-meeting the duty his fellows had laid upon him; the hand that wrote this was cramped from the scythe-handle, as its possessor mowed an intervale on the Connecticut; this blotted signature where smutted fingers have left a black stain was written by a blacksmith of Mid-

dlesex, turning aside a moment from forging a barrel that was to do duty at Lexington. They were men of the plainest; but as the documents, containing statements of the most generous principles and the most courageous determination, were read in the town-houses, the committees who produced them and the constituents for whom they stood were lifted above the ordinary level. Their horizon expanded to the broadest; they had in view not simply themselves, but the welfare of the continent; not solely their own generation but remote posterity. It was Samuel Adams' own plan, the consequences of which no one foresaw, neither friend nor foe, but in January the eyes of men were opening. One of the ablest of the Tories wrote:[1] "This is the foulest, subtlest, and most venomous serpent ever issued from the egg of sedition. I saw the small seed when it was implanted; it was a grain of mustard. I have watched the plant until it has become a great tree." It was the transformation into a strong cord of what had been a rope of sand.

As to intercolonial committees of correspondence, the initiative in their formation was taken soon afterwards by Virginia, Dabney Carr making the motion to that effect in the House of Burgesses. Whether the suggestion of the measure came from the Massachusetts patriots is a matter which has been much disputed. It was so believed in Boston.[2] The measure was only a carrying out of the general policy first marked out by Samuel Adams in the "Instructions" of 1764, and the "Circular Letter" of 1768. In Bancroft's collection is contained an autograph letter of Samuel Adams written to the Virginian, Arthur Lee, then in London, September 27, 1771, in which it is suggested that societies of correspondence shall be formed in different colonies with even a larger purpose than that of banding the colonies together. The suggestion is that they shall correspond with the "Society for the

[1] Daniel Leonard.

[2] Hutchinson: Manuscript letter in Mass. Archives, Apr. 19, 1773.

Maintenance of the Bill of Rights" in England, and so bring America into union with those in the mother-country, who were resisting the encroachments of the Prerogative. "This is a sudden thought," he writes, "and drops undigested from my pen. It would be an arduous task for any man to attempt to awaken a sufficient number in the colonies to so grand an undertaking. Nothing, however, should be despaired of."[1] Whether the Virginia patriots proceeded on their own motion or incited from elsewhere it is certain that Samuel Adams had regarded the banding together of the Massachusetts towns only as preliminary to uniting by similar means the thirteen colonies. The train was laid for it all, though the execution of the purpose was delayed in the Massachusetts Assembly by certain important events. It was greatly to the joy of Massachusetts that Virginia anticipated her. South and North must present an unbroken front. Virginia went forward and Massachusetts was at once at her side.

As the struggle deepens the prominence of Samuel Adams becomes more marked. In the Assembly, he carries the American cause upon his shoulders, often almost alone; but the town-meeting is his favorite sphere. There he is hardly less than supreme, and his most effective work finds its basis there. When Hutchinson calls him "Master of the Puppets," one feels that the language is extravagant. Other expressions, however, with which the letters of Hutchinson abound, the "All in All," the "Instar Omnium," the "Chief Incendiary," are scarcely less strong, and the expressions of those who loved him are as marked as those of the men who regarded him with hatred and terror. Generally it is as the manager somewhat withdrawn behind the figures that stand in the foreground that he is making himself felt. On that December night in 1773, when the town-meeting in the Old South, by the dim light of candles, wait for the return of Benjamin

[1] Copied from the manuscript.

Rotch, owner of the tea-ship "Dartmouth," from Milton, and even Josiah Quincy advises a temporizing course rather than decided action, Samuel Adams sits in the pulpit as Moderator. When presently the merchant enters and announces the governor's refusal to grant a pass to the ship, the words of the Moderator are: "This meeting can do nothing more to save the country!" A war-whoop is heard from near the door; the Mohawks rush, with the crowd at their heels, to Griffin's wharf, and presently through the stillness is heard the crash of the hatchets as the chests are broken in upon the decks of the vessel. Samuel Adams is not in the company, but his sentence from the chair was evidently the concerted signal for which all were waiting. Again, at the last great town-meeting before Lexington and Concord, March 6th, 1775, the fifth celebration of the Boston Massacre, while Warren is the heroic central figure, Samuel Adams is behind all as chief director. On that day Gage had in the town eleven regiments. Of trained soldiers there were scarcely fewer than the number of men on the patriot side; and when we remember that many Tories throughout the Province, in the disturbed times, had sought refuge in Boston, under the protection of the troops, we can feel what a host there was that day on the side of the King. Nevertheless, all went forward as usual. The warrant appeared in due form for the meeting, at which an oration was to be delivered to commemorate the "horrid massacre," and to denounce the "ruinous tendency of standing armies being placed in free and populous cities in time of peace." The Old South was densely thronged, and in the pulpit as Moderator once more, by the side of the town-clerk, William Cooper, quietly sat Samuel Adams. Among the citizens a large party of officers were present, intent, apparently, upon making a disturbance with the design of precipitating a conflict. The war, it was thought, might as well begin then as at any time. Warren was late in appearing; Samuel Adams sat meantime as if upon a powder-barrel that might at any minute roar into the air in a sudden explosion. The tradition

has come down that he was serene and unmoved. He quietly requested the townsmen to vacate the front seats into which he politely invited the soldiers, that they might be well placed to hear. The numbers were so large that they overflowed the pews and many sat upon the pulpit stairs. Warren came at last, entering through the window behind the pulpit to avoid the press, and at once began. A picturesque incident in the delivery of the oration was that, as Warren proceeded, a British captain, sitting on the pulpit stairs, held up in his open palm before Warren's face a number of pistol bullets. Warren quietly dropped his handkerchief upon them and went on. It was strange enough that that oration was given without an outbreak. "We wildly stare about," he says, "and with amazement ask 'Who spread this ruin around us?' What wretch has dared deface the image of his God? Has haughty France or cruel Spain sent forth her myrmidons? Has the grim savage rushed again from the far distant wilderness? Or does some fiend, fierce from the depth of Hell, with all the rancorous malice which the apostate damned can feel, twang her destructive bow and hurl her deadly arrows at our breast? No, none of these; but how astonishing! It is the hand of Britain that inflicts the wound. The arms of George, our rightful King, have been employed to shed that blood, which freely should have flowed at his command, when justice, or the honor of his crown had called his subjects to the field."[1] The oration was given without disturbance, though the tension was tremendous. In the proceedings that followed, the quiet was not perfect, but the collision was averted for a time. The troops were not quite ready, and on the patriot side the presiding genius was as prudent as he was bold.[2]

[1] Frothingham's Warren, p. 433.

[2] Hutchinson gives a new and interesting story respecting this memorable town-meeting, in his Diary. "September 6, 1775, Col. James tells an odd story of the intention of the officers the 5 March, that 300 were in the meeting to hear Dr. Warren's oration: that if he had said anything against the King, &c., an officer was prepared, who stood near, with an egg, to have

Shortly after he sent the following quiet account to Richard Henry Lee in Virginia:

BOSTON, March, 1775.

On the sixth Instant, there was an Adjournment of our Town-meeting, when an Oration was delivered in Commemoration of the Massacre on the 5th of March, 1770. I had long expected they would take that occasion to beat up a Breeze, and therefore (having the Honor of being the Moderator of the Meeting, and seeing Many of the Officers present before the orator came in) I took care to have them treated with Civility, inviting them into convenient Seats, &c., that they might have no pretence to behave ill, for it is a good Maxim in Politicks as well as War, to put and keep the enemy in the wrong. They behaved tolerably well till the oration was finished, when upon a motion made for the appointment of another orator, they began to hiss, which irritated the assembly to the greatest Degree and Confusion ensued. They, however, did not gain their End, which was apparently to break up the Meeting, for order was soon restored, and we proceeded regularly and finished. I am persuaded that were it not for the Danger of precipitating a Crisis, not a Man of them would have been spared. It was provoking enough to them, that while there were so many Troops stationed here for the design of suppressing Town-meetings, there should yet be a Meeting for the purpose of

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thrown in his face, and that was to have been a signal to draw swords, and they would have massacred Hancock, Adams, and hundreds more; and he added he wished they had. I am glad they did not: for I think it would have been an everlasting disgrace to attack a body of people without arms to defend themselves.

"He says one officer cried 'Fy! Fy!' and Adams immediately asked who dared say so? And then said to the officer he should mark him. The officer answered 'And I will mark you. I live at such a place, and shall be ready to meet you.' Adams said he would go to his General. The officer said his General had nothing to do with it; the affair was between them two." Diary and Letters, pp. 528–529.

delivering an oration to commemorate a Massacre perpetrated by Soldiers, and to show the Danger of standing Armies.

SAMUEL ADAMS.[1]

It was but a few weeks now to the 19th of April, when Samuel Adams, flying with Hancock across the fields from Lexington to Woburn, exclaimed: "What a glorious morning is this!" On the 12th of June came Gage's proclamation, offering full pardon to every soul in America on condition of submission, "excepting only from the Benefit of such Pardon Samuel Adams and John Hancock, whose Offences are of too flagitious a Nature to admit of any other Consideration than that of condign Punishment."[2]

Samuel Adams, as a member of Congress, now enters upon a career, which takes him from the scene of his early activity. Both friends and enemies testify to the weight of his influence in the new sphere. According to Galloway, the able Pennsylvanian, who so much embarrassed the action of the first Congress, and afterwards stood strong on the royal side: "It was this man who, by his superior application, managed at once the faction in Congress at Philadelphia, and the faction in New England;" and Jefferson wrote: "I always considered him more than any other man the *fountain* of our important measures." Yet he never attained before the nation the position which he had held in his own province and town. While his younger kinsman, John Adams, rapidly rose to eminence, he remained less distinguished in the body of delegates, which, as the war proceeded, gradually sank lower and lower in the estimation of the country. Possibly his abilities were better adapted to the arena of the Folk-mote than to that of a great representative body. Certainly his principles were such as to lead to embarrassment in the management of large affairs. His excessive dislike of delegated power, for instance, led

[1] Copied from the manuscript in Bancroft's collection.

[2] From Mr. Bancroft's copy of the Proclamation.

him to oppose the establishment of departments presided over by secretaries, and made him prefer, as the executive machinery of government, the more awkward form of committees. He set himself against a foreign office; against a department of War, to be presided over by Gen. Sullivan; greatest mistake of all, against a bureau of Finance, with Robert Morris as the secretary.

With the close of the war, Samuel Adams was consigned to poverty and comparative obscurity. Age was fast coming upon him; an estrangement with Hancock, whose star was in the ascendant, helped to throw him into the background; the tendency toward aristocratic forms and a government strongly centralized, which, after the rebellion of Shays, became very marked in Massachusetts, brought into disrepute the great arch-democrat. Yet Samuel Adams was rarely unreasonable in his advocacy. In the dismal time of the Shays trouble he stood stoutly for law and order against the vast popular conspiracy. The insurgents had powerful backing and the means employed were not greatly different from those used before the war against British aggression. "Now that we have regular and constitutional government," said Samuel Adams, "popular committees and county conventions are not only useless but dangerous. They served an excellent purpose and were highly necessary when they were set up, and I shall not repent the small share I then took in them." He declared for the sternest measures in support of the laws. At the head of Boston town-meeting, which he guided in the old way as Moderator, and whose spokesman he became in the crisis, he strengthened the hands of his noble old colleague Bowdoin, now become Governor, in the most decisive course. "In monarchies the crime of treason and rebellion may admit of being pardoned or lightly punished; but the man who dares to rebel against the laws of a republic ought to suffer death."

In the matter of the adoption of the Federal Constitution, his position was not at all that of Patrick Henry and Richard

Henry Lee, who opposed it with all their power. He received it hesitatingly, and suggested amendments looking toward a diminution of what he felt to be a dangerous tendency toward centralization. He never, however, set himself against it; indeed, it was only through his influence that Massachusetts was at length induced to adopt it.[1]

The neglect and obloquy of which the old man had become the subject were pitiful. There is still in existence the note, written in a rude hand upon common paper, the letters run together while lying upon the wet grass of his garden into which it had been thrown, in which Samuel Adams is warned to expect assassination. He remained, indeed, the public servant, but in positions comparatively inconspicuous, while men, whose fortunes he had made, were in the places of honor. But before it was too late, the whirligig of time had begun to bring in its revenges. A strong effort was made to send him once more to Congress, as the administration of Washington began under the just-adopted Constitution. The effort was unsuccessful, but the canvass awoke the hearts of the people to a better appreciation of their well-tried servant. To the man of to-day, such a conjunction as the setting side by side of the names of Washington and Samuel Adams seems little less than ludicrous. It was not absurd in those days. Say the writers: "While we are careful to introduce to our Federal Legislature the American Fabius, let us not be unmindful of the American Cato." He became lieutenant-governor, and, in 1793, governor, a post which he occupied through successive re-elections until 1797, when he retired from public service at the age of 75. Could he have lived another life, a brilliant recognition would probably have fallen to him. The forces

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[1] Bancroft: Hist. of Constitution, II., 261.

In a private letter to the writer, Mr. Bancroft says: "Point out the error that many have made in saying that he was at first opposed to the Constitution. He never was opposed to the Constitution; he only waited to make up his mind."

of Federalism were growing exhausted; the incoming wave of "Democracy" would certainly have lifted him into a place of power. Already in 1796, Virginia cast for him in the Electoral College fifteen votes for the Presidency, putting him next to Jefferson, to whom she gave twenty; and, in 1801, when at length the change had come, Jefferson, just elected, wrote to the octogenarian: "How much I lament that time has deprived me of your aid! It would have been a day of glory which should have called you to the first office of my administration. But give us your counsel, my friend, and give us your blessing; and be assured that there exists not in the heart of man a more faithful esteem than mine to you."[1]

Only once in his old age did the uncompromising Puritan so far forget himself as to fall into an inconsistency. As governor, he felt that his function was simply executive, to carry out the will of the people and their representatives in the legislature, and that it was a usurpation for such a magistrate to interpose his veto to thwart their action or in any other way to proceed independently. But efforts were made to open a theatre in Boston! The legislature passed an act prohibiting it, upon which the people in town-meeting demanded its repeal. This the old man fought on the floor of Faneuil Hall, till his voice was drowned in a roar of opposition. The demand for repeal was made to which the legislature listened. But the stout Independent whose strictness was only to be matched by the toughest of the covenanters or the most unbending of the Ironsides, in his gubernatorial capacity vetoed the repeal. The Puritan and the politician for once were in conflict, and the Puritan carried the day. For himself he indulged in no amusement but psalm-singing; his dear Boston he would have a "Christian Sparta," similarly limited in its recreations; to save the town from going to the dogs, any sacrifice could be made.

[1] From the manuscript in Bancroft's Collection.

He was narrow, over subtle, perhaps, in the expedients which he sometimes employed, slow in recognizing the ways through which, in a vast republic like ours, all large affairs must be administered. But America has had few public men as devoted and, on the whole, as wise as he. From first to last, one can detect in him no thought of personal gain or fame. He was so poor, that when he went to the First Continental Congress in 1774, his friends were obliged to buy him clothes that he might make a respectable appearance. His wife sometimes supported the family, while he worked for the town or state. He lived in his latter years in the confiscated house of a Tory which was given him rent-free as an offset to claims he had for public service. It would have been necessary at last to support and bury him at the public charge, had he not inherited from his only son, an army surgeon who died at 37, claims against the government which yielded about six thousand dollars. This sum, fortunately invested, sufficed for the simple wants of himself and his faithful wife. As careless was he in regard to his position before his cotemporaries and in history. Time and again the credit for great measures which he originated was given to men who were simply his agents, and there was never a remonstrance from him; time and again men whom he brought forward from obscurity, to set here or there, with scarcely more volition of their own than so many chess-men, stood in an eminence before the world which is not yet lost, obscuring the real master. Papers which would have established his title to a position among the greatest, he destroyed by his own hand or left at hap-hazard. He died October 2, 1803. Political rancor pursued him to the last. There was embarrassment in procuring a suitable escort for the funeral; the legislature of Massachusetts did him scant honor; even to-day his grave in the Granary burying-ground, in the heart of the town that he so much loved, is marked slightly, if at all.

## The Town-Meeting To-day.

Though the Town-meeting of the New England of to-day rarely presents all the features of the Town-meeting of the Revolution, yet wherever the population has remained tolerably pure from foreign admixture, and wherever the numbers at the same time have not become so large as to embarrass, the institution retains much of its old vigor. The writer recalls the life, as it was twenty-five years ago, of a most venerable and uncontaminated old town, whose origin dates back more than two hundred years. At first it realized almost perfectly the idea of the Teutonic "tun." For long it was the frontier settlement, with nothing to the west but woods until the fierce Mohawks were reached, and nothing but woods to the north until one came to the hostile French of Canada. About the houses, therefore, was drawn the protection of a palisade to enclose them (*tynan*) against attack. Though not without some foreign intermixture, the old stock was, twenty-five years ago, so far unchanged that in the various "deestricks" the dialect was often unmistakeably nasal; the very bob-o-links in the meadow-grass, and the bumble-bees in the holly-hocks might have been imagined to chitter and hum with a Yankee twang; and "Zekle" squired "Huldy," as of yore, to singing-school or apple-paring, to quilting or sugaring-off, as each season brought its appropriate festival. The same names stood for the most part on tax, voting, and parish lists that stood there in the time of Philip's war, when for a space the people were driven out by the Indian pressure; and the fathers had handed down to the modern day, with their names and blood, the venerable methods by which they regulated their lives. On the northern boundary a factory village had sprung up about a water-power; at the south, too, five miles off there was some rattle of mills and sound of hammers. For the most part, however, the people were farmers, like their ancestors, reaping great hay-crops in June with which to fat in the stall long

rows of sleek cattle for market in December; or by farmer's alchemy, transmuting the clover of the rocky hills into golden butter.

From far and near, on the first March-Monday, the men gathered to the central village, whose people made great preparations for the entertainment of the people of the outskirts. What old Yankee, wherever he may have strayed, will not remember the "town-meeting ginger-bread," and the great roasts that smoked hospitably for all comers! The sheds of the meeting-house close by were crowded with horses and sleighs; for, in the intermediate slush, between ice and the spring mud, the runner was likely to be better than the wheel. The floor of the town-hall grew wet and heavy in the trampling; not in England alone is the land represented; a full representation of the soil comes to a New England town-meeting,—on the boots of the freemen. On a platform at the end of the plain room sat the five selectmen in a row,—at their left the venerable town-clerk, with the ample volume of records before him. His memory went back to the men who were old in Washington's administration, who in their turn remembered men in whose childhood the French and Indians burned the infant settlement. Three lives, the town-clerk's the third, spanned the whole history of the town. He was full of traditions, precedents, minutiae of town history, an authority in all disputed points of procedure from whom there was no appeal. In front of the row of selectmen with their brown, solid farmer faces, stood the Moderator, a vigorous man in the forties, six straight feet in height, colonel of the county regiment of militia, of a term's experience in the General Court, thus conversant with parliamentary law, a quick and energetic presiding officer.

It was indeed an arena. The south village was growing faster than the "Street," and there were rumors of efforts to be made to move the town-hall from its old place, which aroused great wrath; and both south village and "Street" took it hard that part of the men of the districts to the

north, had favored a proposition to be set off to an adjoining town. The weak side of human nature came out as well as the strong in the numerous jealousies and bickerings. Following the carefully arranged programme or warrant, from which there could be no departure, because ample warning must be given of every measure proposed, item after item was considered,—a change here in the course of the highway to the shire town, how much should be raised by taxes, the apportionment of money among the school districts, what bounty the town would pay its quota of troops for the war, a new wing for the poor-house, whether there should be a bridge at the west ford. Now and then came a touch of humor, as when the young husbands, married within the year, were elected field-drivers, officers taking the place of the ancient hog-reeves. Once the Moderator for the time-being displeased the meeting by his ruling as regards certain points of order. "Mr. Moderator," cried out an ancient citizen with a twang in his voice like that of a well-played jews-harp, "ef it's in awrder, I'd jest like to inquire the price of cawn at Cheapside." Another rustic Cicero whom for some reason the physicians of the village had displeased, once filled up a lull in proceedings with: "Mr. Moderator, I move that a dwelling be erected in the centre of the grave-yard in which the doctors of the town be required to reside, that they may have always under their eyes the fruits of their labors."

The talkers were sometimes fluent, sometimes stumbling and awkward. The richest man in the town, at the same time town-treasurer, was usually a silent looker-on. His son, however, president of the county agricultural society, an enterprising farmer, whose team was the handsomest, whose oxen the fattest, whose crops the heaviest, was in speech forceful and eloquent, with an energetic word to say on every question. But he was scarcely more prominent in the discussions than a poor broom-corn raiser, whose tax was only a few dollars. There was the intrigue of certain free-thinkers to oust the ministers from the school-committee,—the manœuvring of the factions to get hold of the German

colony, a body of immigrants lately imported into the factory-village to the north. These sat in a solid mass to one side while the proceedings went on in an unknown tongue, without previous training for such work, voting this way or that according to the direction of two or three leaders.

Watching it all, one could see how perfect a democracy it was. Things were often done far enough from the best way. Unwise or doubtful men were put in office, important projects stinted by niggardly appropriations, unworthy prejudices allowed to interfere with wise enterprises. Yet in the main the result was good. This was especially to be noted,—how thoroughly the public spirit of those who took part was stimulated, and how well they were trained to self-reliance, intelligence of various kinds, and love for freedom. The rough blacksmith or shoemaker, who had his say as to what should be the restriction about the keeping of dogs, or the pasturing of sheep on the western hills, spoke his mind in homely fashion enough, and possibly recommended some course not the wisest. That he could do so, however, helped his self-respect, caused him to take a deeper interest in affairs beyond himself, than if things were managed without a right on his part to interfere; and this gain in self-respect, public spirit, self-reliance, to the blacksmith and shoemaker is worth far more than a mere smooth or cheap carrying-on of affairs.

Is there anything more valuable among Anglo-Saxon institutions than this same ancient Folk-mote, this old-fashioned New England Town-meeting? What a list of important men can be cited who have declared in the strongest terms that tongue can utter their conviction of its preciousness![1] It

[1] John Stuart Mill: Representative Government, p. 64, etc. De Tocqueville: De la Démocratie en Amérique, I. p. 96, etc. J. Toulmin Smith: Local Self-Government and Centralization, p. 29, etc. May: Constitutional History of England, II. 460. Bluntschli: quoted by H. B. Adams, Germanic Origin of N. E. Towns. Jefferson: to Kercheval, July 12, 1816, and to Cabell, Feb. 2, 1816. John Adams: Letter to his Wife, Oct. 29, 1775. Samuel Adams: Letter to Noah Webster, April 30, 1784. R. W. Emerson: Concord Bicentennial Discourse, 1835, etc., etc.

has been alleged that to this more than anything else was due the supremacy of England in America, the successful colonization out of which grew at last the United States. France failed precisely for want of this.[1] England prevailed precisely because "nations which are accustomed to township institutions and municipal goverment are better able than any other to found prosperous colonies. The habit of thinking and governing for one's self is indispensable in a new country." So says De Tocqueville, seeking an explanation for the failure of his own race and the victory of its great rival.[2] None have admired this thorough New England democracy more heartily than those living under a very different polity. Richard Henry Lee, of Virginia, wrote in admiration of Massachusetts,[3]—"where yet I hope to finish the remainder of my days. The hasty, unpersevering, aristocratic genius of the South suits not my disposition, and is inconsistent with my views of what must constitute social happiness and security." Jefferson becomes almost fierce in the earnestness with which he urges Virginia to adopt the township. "Those wards, called townships in New England, are the vital principle of their governments, and have proved themselves the wisest invention ever devised by the wit of man for the perfect exercise of self-government, and for its preservation. . . . . As Cato, then, concluded every speech with the words '*Carthago delenda est*,' so do I every opinion with the injunction: 'Divide the counties into wards!'"[4]

The town-meeting has been called "the primordial cell of our body-politic." Is its condition at present such as to satisfy us? As we have seen, even in New England, it is only here and there that it can be said to be well-maintained. At the South, Anglo-Saxon freedom, like the enchanted

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[1] Lecky: Hist. XVIIIth Century, I., 387.
[2] De la Dém. en Am., I., 423.
[3] Life of R. H. Lee: Letter to John Adams, Oct. 7, 1779, I., p. 226.
[4] Works, VI., 544; VII., 13.

prince of the Arabian Nights, whose body below the waist the evil witch had fixed in black marble, has been fixed in African slavery. The spell is destroyed; the prince has his limbs again, but they are weak and wasted from the hideous trammel. The traces of the Folk-mote in the South are sadly few. Nor elsewhere is the prospect encouraging. The influx of alien tides to whom our precious heir-looms are as nothing, the growth of cities and the inextricable perplexities of their government, the vast inequality of condition between man and man—what room is there for the little primary council of freemen, homogeneous in stock, holding the same faith, on the same level as to wealth and station, not too few in number for the kindling of interest, not so many as to become unmanageable—what room is there for it, and how can it be revivified or created? It is perhaps hopeless to think of it. Mr. Freeman remarks that in some of the American colonies "representation has supplanted the primitive Teutonic democracy which had sprung into life in the institutions of the first settlers." Over vast areas of our country, representation, to-day, has supplanted democracy. It is an admirable, an indispensable expedient, of course. Yet that a representative system may be thoroughly well managed, we need below it the primary assemblies of the individual citizens, "regular, fixed, frequent, and accessible," discussing affairs and deciding for themselves. De Tocqueville seems to have thought that Anglo-Saxon America owes its existence to the Town-meeting. It would be hard, at any rate, to show that the Town-meeting was not a main source of our freedom. Certainly, it is well to hold it in memory; to give it new life, if possible, wherever it exists; to reproduce some semblance of it, however faint, in the regions to which it is unknown; it is well to brush the dust off the half-forgotten historic figure who, of all men, is its best type and representative.

V-VI

# TAXATION

IN THE

# UNITED STATES

1789-1816

"The *salus populi* should be the prime consideration in regard to all taxes."—*McCulloch.*

"Money is with propriety considered as the vital principle of the body politic; as that which sustains its life and motion, and enables it to perform its most essential functions."—*Hamilton.*

"Security of property, freedom of industry, and moderation in public expenditure, are the only means by which society can constantly advance in the career of wealth and civilization."—*John McVickar.*

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History is past Politics and Politics present History — *Freeman*

SECOND SERIES

V-VI

# TAXATION

IN THE

# UNITED STATES

## 1789-1816

By HENRY CARTER ADAMS, Ph. D.

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# TAXATION
IN THE
# UNITED STATES,
## 1789-1816.[1]

## I.—CUSTOMS DUTIES AND TONNAGE ACTS.

It necessarily follows from the nature of the taxing power that its exercise among free peoples involves much besides securing revenue to States. Questions of general policy, of social purpose, of commercial and industrial interests are found so closely intertwined with questions of tariff, impost, and rates, that a study of the latter group of topics is impossible without entering, to some extent at least, into a consideration of the former. In the history of our own country, this has been especially true since 1816, because of the employment of tax machinery for other than tax purposes; yet even prior to that date, while the protectionist idea from the American standpoint was still in flux, it is found quite difficult to separate revenue questions from current history.

There is one point of marked contrast between the two periods here brought into comparison. Previous to 1816, all

[1] The following essay was written in the winter of 1878, while its author was a student at the Johns Hopkins University. During the year 1879, it was translated into German and appeared in the "*Zeitschrift für die gesammte Staatswissenschaft*," published at Tübingen. The first chapter has been modified, but, in the main, the essay is here presented in its original form. In addition to the facts which it contains, a point of peculiar interest will be found in a new interpretation of the relation which protection held to general politics in 1789.

revenue discussions were largely influenced by considerations of external policy and foreign intercourse, and the workings of revenue laws were, to a considerable degree, affected by the actions of England and France; since the close of the second war with England, however, the politics of the United States have taken their tone and color from questions centering in domestic interests. The treaty of Versailles did not make us a people independent in fact as well as in name. England had no intention of loosening her grasp upon America, or of abandoning, in any essential feature, her traditional colonial policy. Colonial commerce was then of much greater relative importance than at present, and entered more largely into the control of foreign affairs; and the United States, being the first of dependent peoples to deny the claims of the colonial system, found that they had undertaken the solution of a problem demanding radical modification of long-established relations. From one point of view—it may be a narrow point of view—the first twenty-five years of national life may be said to have been devoted to the realization of that independence for which the first great war had been undertaken. In turning our attention, then, to a study of the customs tariff legislation in the United States previous to 1816, we must be prepared for extensive excursions into what at first may appear to be fields of inquiry altogether foreign to financial investigation.

Immediately upon the organization of the House of Representatives, the question of ways and means was introduced as the most pertinent which could engage the attention of Congress. It appears to have been assumed that indirect taxes through duties and imposts should be accepted as the main reliance of the government for revenue, and a plan for the establishment of a system of customs duties was submitted accordingly. This plan received the attention of the House from April 8 to May 17; a formulated bill was then sent to the Senate which, amended by that body and re-amended by a committee of conference, received the approval of the president July 4, 1789. This was the first revenue act under the

new government. As finally approved, this law embraced a long list of specific duties, and five classes of goods imposed with *ad valorem* rates. It also contained a short free list, made provision for the repayment of all duties upon goods again exported, and admitted the principle of discrimination in favor of commodities imported in vessels built or owned by citizens of the United States. The details of the act are as follows:

SPECIFIC DUTIES.

| Articles taxed. | Rate. | Basis of measure. |
|---|---|---|
| Spirits, according to proof | 8 to 10 cts. | Per gallon. |
| Wines, according to quality | 10 to 18 cts. | " " |
| Beer, Ale, and Porter in casks | 5 cts. | " " |
| Beer, Ale, Porter, and Cider in bottles | 20 cts. | Per dozen. |
| Molasses | 2½ cts. | Per gallon. |
| Sugars | 1 to 3 cts. | Per pound. |
| Teas, from China in American vessels | 6 to 20 cts. | " " |
| Teas, from Europe in American vessels | 8 to 26 cts. | " " |
| Teas imported in any other manner | 15 to 45 cts. | " " |
| Candles of wax or spermaceti | 6 cts. | " " |
| Tallow candles and soap | 2 cts. | " " |
| Cheese | 4 cts. | " " |
| Boots | 50 cts. | Per pair. |
| Shoes of leather | 7 cts. | " " |
| Shoes of silk | 10 cts. | " " |
| Cables and tarred cordage | 75 cts. | Per 112 pounds. |
| Untarred cordage | 90 cts. | " " " |
| Twine and pack thread | $2.00 | " " " |
| Unwrought steel | 56 cts. | " " " |
| Nails and spikes | 1 ct. | Per pound. |
| Manufactured tobacco | 6 cts. | " " |
| Snuff | 10 cts. | " " |
| Indigo | 16 cts. | " " |
| Hemp | 60 cts. | Per 112 pounds. |
| Cotton | 3 cts. | Per pound. |
| Wool and cotton cards | 50 cts. | Per dozen. |
| Coal | 2 cts. | Per bushel. |
| Pickled fish | 75 cts. | Per barrel. |
| Dried fish | 50 cts. | Per quintal. |
| Salt | 6 cts. | Per bushel. |
| Coffee | 2½ cts. | Per pound. |
| Cocoa | 1 ct. | " " |

### Ad Valorem Duties.

Goods paying ten per cent; Glass of all kinds except black quart bottles; all china, stone and earthen-ware; gunpowder; paints ground in oil; shoe and knee buckles; lace and leaf of gold and silver.

Goods paying seven and a half per cent; Blank books; writing, printing, or wrapping paper; paper hangings and pasteboard; cabinet-ware, buttons, saddles, gloves of leather, fur, wool, or beaver hats, millinery goods, ready-made clothing; leather, castings of iron, or iron slit and rolled, anchors, and all wrought tin or pewter ware; brushes, walking canes, and whips.

Carriages or parts thereof were to pay fifteen per cent.; goods (other than teas) from India or China, not brought in American ships, were imposed with twelve and one-half per cent. All unspecified importations were charged with a tax of five per cent. of their value at time and place of importation. The free list included saltpetre, tin in pigs, tin plates, lead, old pewter, brass, iron and brass wire, copper in plates, wool, cotton, dyeing woods and dyeing drugs, raw hides, beaver, and all other furs and deer skins. From the rates imposed as above stated, a discount of ten per cent. was allowed on such goods as should be imported in vessels owned in America, and a drawback of all duties paid (ten per cent. being retained for expenses incurred) on goods which, within twelve months, should be exported to some foreign country.

Although this first law was introduced as a temporary measure, it is yet the center of deeper historical interest than any other revenue act that comes under consideration in this essay; for it not only presents questions that are unsettled, but suggests also a line of study bearing directly upon the theory of historical development in the United States. The preamble of the law is as follows: "Whereas it is necessary for the support of the government, for the discharge of the debts of the United States, and the encouragement and pro-

tection of manufactures, that duties be laid on goods, wares and merchandise imported," &c. The law of 1790, which increased duties about two and one-half per cent., laid no especial stress upon the encouragement of manufactures, although the revenue element was brought into greater prominence, making the duties levied co-existent with the debts for which they were imposed. Now there are two questions that suggest themselves respecting the "encouragement and protection" clause of this first law. The one asks how far the proclaimed purpose of this act was realized and to what extent the development of industries in the United States previous to 1816 is traceable to the fostering care of the government. This question, as also criticisms upon the financial workings of the revenue system as a whole, will claim attention in the last chapter of this essay. The second question, and the one that presents itself for immediate consideration, leads to the necessity of studying anew the meaning of this word protection, the reason for its appearance in the first revenue act, and the development of the protective idea up to 1816. At this latter date, all will admit that the protective idea had grown into a perfect and independent policy, with its party of adherents and opponents, and that it has so remained till the present day; but the interpretations respecting the period covered by the present study are not altogether harmonious. The question, then, is concerning the germ of the "American System" of protection and the conditions out of which it was developed. Our purpose is to learn, if possible, how far political events, on the one hand, and industrial ideas, on the other, are responsible for the shape which protection finally took.

Respecting the first step in the prosecution of such an inquiry, there is no cause for hesitation. To weigh the relative importance of industrial and political considerations in giving shape to the American protective system, one must first learn the industrial condition of the United States in 1789, and grasp intelligently those combinations of interests and purposes

that go to make up a political policy. Our first task, then, consists in a study of industrial conditions.

## Industrial Interests of the United States in 1789.

The population of the colonies during the Revolutionary war had been much overestimated, and the enumeration in 1790 was the source of disappointment to the American people. The census returns were as follows:

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| White males of sixteen and upwards | 813,298 |
| White males under sixteen | 802,327 |
| White females | 1,556,839 |
| All other persons (free blacks) | 59,466 |
| Slaves | 697,879 |
| Total number of inhabitants | 3,929,827 |

This classification, adopted to determine Congressional representation, is of no direct importance for the purpose in hand, but, by applying the averages which statisticians of that day accepted as correct, the total population included in the so called laboring class may be estimated at 3,049,000. This number embraced all not engaged in professional and commercial pursuits, as also many not of the laboring age. The kind of industries to which this labor was applied can only be ascertained from the political speeches, the addresses, and essays of the day.

The industry which received by far the greatest attention in the United States was agriculture. Benjamin Franklin in 1789, speaking of New England, said, "Calculations carefully made do not raise the portion of property or the number of men employed in manufactures, fisheries, navigation, and trade to one-eighth of the property and people occupied by agriculture even in that commercial quarter."[1] Tench Coxe

[1] Address before the "Society for Political Enquirers" of Philadelphia, May 11, 1789.

the same year estimated that nine-tenths of the population of the United States were engaged in agricultural pursuits, and the debates of the first Congress indicate that this fact was perfectly recognized by the statesmen of 1789.[1]

The products to which this agricultural labor was applied may be grouped under the three following classes: (*a*) Vegetable food-products, wheat, corn, rice, potatoes, etc.; (*b*) Products of animal life, such as beef, mutton, pork, hides, wool, butter, lard; (*c*) Products of the soil other than foods, such as tobacco, cotton, indigo, hemp, timber.

With regard to the products raised at this time, the territory of the United States may be divided into four districts: New England and part of New York comprised the first; from the central part of New York to the southern boundary of Pennsylvania, the second; Maryland and Virginia, the third; and the remaining Southern States, the fourth. The New England district was chiefly devoted to the raising of agricultural products of the second class. "In the Eastern States, cattle are very numerous and generally large. Cheese is abundant. No European State can exceed the United States in the article of salt provision. Sheep are bred in all parts of the country, but in New England they form one of greatest objects of the farmer's care and one of the surest sources of profit."[2] The wheat-growing territory lay in the second district. In 1789 Pennsylvania exported two million and New York, one million bushels of that staple. In the debates during the convention of 1787, Mr. Pinckney spoke of the flour trade of Pennsylvania and New Jersey.[3] Virginia and Maryland also exported large quantities of wheat, but the chief source of wealth to this third agricultural district was found in the growing of tobacco. Before the war, those

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[1] Coxe, View of the United States, p. 6.

[2] Most of these facts are taken from Coxe's View of the United States, ch. vi, "For the information of migrators from foreign countries."

[3] Wednesday, Aug. 29.

States exported annually between eighty and ninety thousand hogsheads of tobacco. The States lying yet farther south, besides raising some tobacco, furnished large quantities of rice and indigo. The South Carolina crop of rice in 1789 was sixty millions of pounds. Cotton had not yet come to be a staple for the Southern States, but was considered as a commodity for which there might arise a demand. In regard to mineral resources it was known that all the States but Delaware contained iron, and it was supposed that Virginia was exceedingly rich in metals of all kinds.

That industry which, in the United States, stood second in importance to agriculture was commerce. It is, however, very difficult to procure specific knowledge respecting ships and seamen for the period now under consideration. For the year ending September, 1790, American vessels, engaged in the foreign trade, amounted to 365,093 tons, while American coasting and fishing vessels amounted to 149,433 tons.[1] In the year 1789, out of eighty-nine foreign ships in the ports of China, fifteen bore the American flag, though it is quite probable that some of these represented English capital.[2] These figures present, however inadequately, some idea of the extent of American commerce, but even these facts were not known to the members of the first Congress. They knew in general that New England owned the greater part of domestic shipping, and that her seamen were endeavoring to compete with England in the carrying trade of America, but, as will appear later, the tonnage-bill and those clauses of the tariff-bill which discriminated against foreign vessels, received approbation as political rather than as economic measures.

Manufactures, in 1789, were of comparatively slight importance, being restricted for the most part to articles which may be considered as one step removed from raw material, as for example, flour made from wheat, or snuff from tobacco.

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[1] Compare Pitkin's Commerce of the United States, ch. xi.

[2] McPherson's Annals of Commerce, p. 195.

To go beyond this would have required capital and skill, neither of which the young States possessed. The only exception to this was the industry of ship-building. Better and cheaper ships could be built in the United States than in Europe. The cost of an oak vessel in Massachusetts was about twenty-four Mexican dollars per ton, while live oak and American cedar could be made for thirty-six or thirty-eight dollars per ton. A fir vessel on the Baltic cost thirty-five dollars, while an oak ship in England, Holland, or France cost fifty or sixty dollars per ton.[1] American ships had been the great manufactures for exportation. "For nicety of workmanship the palm was awarded to Philadelphia, but nowhere could they be built so cheaply as at Boston. More than one-third of the tonnage employed in British commerce, before the war, was of American construction."[2]

The manufacture of rum in New England and of beer in Pennsylvania was also very extensive; in case of the latter the only hindrance was lack of black quart bottles. This fact seems to have been known in Congress, as appears from the exemption of such bottles from the ten per cent. duty imposed upon other kinds of glass ware. Drying fish was also an extensive business in the Eastern States, this product being exchanged with the West Indies for molasses. There was no steam mill on the continent, the force of wind, water, and animals being relied upon for such power as the industries required. In general, these facts were well known to the members of the first Congress, and they recognized also—what some of their critics fail to recognize—that the treaty of Versailles, which had gained for them political independence, had set them outside the course of English commerce and materially disturbed the old trade relations.

The significance of these industrial facts will appear more distinctly as we proceed in our study.

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[1] Coxe's View of the United States, p. 100.

[2] Bancroft's History of the Constitution of the United States, I., p. 63.

## Political Origin of Protection.

Turning now to a consideration of the political creed of the American people, one quickly perceives that its roots run far back into colonial conditions and that its temporary expression in 1789 was shaped by peculiar foreign relations. What then, we must inquire, were the foreign relations of the newly established Federal government?

When the first Congress convened, definite treaties between the United States and foreign powers were confined to a treaty of "Peace" with Great Britain; of "Amity and Commerce" with France, Prussia, Sweden, and the Netherlands; and of "Peace and Friendship" with Morocco. Commercial intercourse with all other countries was according to the common law of nations, modified by the internal regulations of each particular country. The "Amity and Commerce" treaties were intended to be in harmony with principles of reciprocity. They provided that free ships should make free goods and persons, except persons actually in the service of the enemy; and freedom of trade was also allowed to each contracting nation with the enemy of another nation. The historical significance of the international relations thus disclosed lies in the fact that the commercial possibilities of the United States were neither restricted nor yet guaranteed to any great degree by treaty-law, but were dependent rather upon the temporary policies of foreign powers. This possibility of dependence, and the disposition on the part of European peoples to exercise control over American trade, throws much light upon those clauses of the first tariff law which discriminated in favor of domestic shipping, and explains also the rapid growth of American neutral commerce.

Of especial importance to the United States was the attitude of England in respect to matters of trade. Habit, similarity in the mode of living, and the long credit which English merchants were willing to give, rendered trade with Great Britain of more importance than with all other nations. For

the year ending September, 1790, of twenty millions of exports to thirteen foreign countries, nine millions went to the dominions of Great Britain; yet the only clause contained in the treaty with that nation relating to commerce was the one which proclaimed the navigation of the Mississippi open to both nations. To understand the conditions under which this trade took place, it will be necessary to notice the commercial policy of England and the effort which she made to apply it to the American States at the close of the Revolutionary War. The purpose of England was to maintain the people of this country in colonial dependence, and her foreign policy still found its theoretical basis in the old system of Mercantilism. The means by which this was to be carried out were very simple, consisting simply in requiring that all goods, so far as England could control them, should be carried in British ships. According to this system, as stated by one connected with its application at the time, "the only use of colonies was the monopoly of their carrying trade and consumption. . . . . Our late war has been for the exclusive trade of America, and our enormous debt has been incurred for that object." The object of the war had not been relinquished by England when the Colonies were granted their political freedom, and it now became the purpose of Great Britain to secure through navigation acts what she had lost at arms. In 1783, Mr. Pitt introduced into Parliament a bill for the regulation of commerce between the two countries which, had it passed, would have laid the foundation of lasting friendship; but which "had it passed," said Lord Sheffield, "would have undermined the whole naval power of Great Britain." After the failure of this bill the King and council were granted power to regulate commerce with the American States. The first order under this grant was on the 26th of December, an order not radically changed till 1794. According to the regulations imposed, importations of any un-manufactured goods, the growth or product of any of the United States of America, were permitted subject to the payment of common duties, "if

imported by British subjects, in British ships." The forest and agricultural products, and live stock of America, could be exported to the West Indies in British bottoms only, while the rum, sugar, molasses, and other products of those islands, could only be carried to the States in ships built and owned by British subjects.

It was by such regulations that England thought to retain the exclusive trade of America. To meet this policy and secure emancipation from its assuming tyranny, was one of the most powerful arguments which led the States to vest Congress with the power to regulate commerce. England denied that any commercial treaty whatever was necessary with the United States. "It is impossible," said Lord Sheffield, "to name any material advantage the American States will or can give us more than what we, of course, shall have." This was not an opinion carelessly made, but based upon a careful survey of the kind of goods which the United States would consume and which England could supply; and, considering the industrial position of England and the amount of her accumulated capital which allowed goods to be sold upon long credit, it must be recognized that this position of the British ministry was well taken, for it lay in their power to control the trade of this country without granting a single privilege. The exercise of such a policy appeared to the Americans unjust and harmful to their national interests, and they expected that the newly formed government, centralized to such a degree that, in many quarters, it was occasion of grave solicitude, would adopt measures adequate to secure protection from its evil consequences.

It has, as it appears to me, been carelessly assumed by a certain class of writers that it would have been well for the United States to have accepted the situation and rested content with such trade as England would have permitted. But there are certain points to be noticed in connection with this claim. The political nationality of America was dependent upon the emancipation of her industries from the commercial regu-

lations of England. Without this, nationality was an empty name. No new purpose was infused into public sentiment which led members of the first Congress to resist the mercantile system above described, for it was just this which America had been resisting for more than a century. The method of coercion adopted by England had alone been changed. It was a demand for emancipation from England's colonial policy that first led to hostilities against the mother country; it was the same purpose that led to continued resistance. But more than this, there was, commercially considered, no possibility for freedom of trade. The highest benefits of freedom of exchange are only procurable when there is an open market for sale as well as for purchase, but, at this time, the conditions of trade were such that competition was confined to sellers, buyers being comparatively free from its regulating potency. Trade was largely carried on by men called "factors," and the condition of American producers under the navigation acts, was somewhat analogous to that which would arise, should a State legislature pass a law requiring all people living in the country to deal, both in selling and buying, with certain privileged pedlers.

It was out of such foreign relations as we have described that the political purpose of 1789 arose, and it must be confessed that they indicate a somewhat complicated state of affairs. In general one may say that the controlling tendency of public sentiment from 1789 to 1816 was toward a stronger government, although the line described presents many deviations from direct approach. These deviations are somewhat difficult to follow because of frequent interchange in cause and effect. What at one time must be regarded as the consequence of experienced evils arising out of weakness in the central authority, at another becomes the conscious purpose of the administration. Thus, subsequently to 1783, the futile effort of the various States to avoid independently the commercial purposes of Great Britain gave birth to a desire for a power national in reality as well as in name, and was influential in

securing from the American people a reluctant consent to the new constitution. During these years one may correctly say that the idea of a strong government was a resultant and not a causal factor in public life.

But by the year 1790, adequate central authority had been granted, and the men instrumental in securing it had been entrusted with the task of forming and administering a public policy. The controlling idea now came to be that of strong government, and all subordinate questions were moulded so as to support this one purpose. One cannot, therefore, judge correctly of the early financial policy of the United States, or, indeed, of any other measure which was made to contribute to the realization of a strong government, independently of this fact.

In 1801, when the Republicans came into power, the logic of action was again changed. The avowed purpose of the victorious party was to check the tendency toward centralization, but necessity was stronger than purpose and very little was done to redeem the pledges which the opponents of the Hamiltonian system had given during the controversy which brought them to office. The government drifted until 1807, when foreign affairs became so threatening as to throw the thoughts of the country again in upon itself. The commerce of the country, which up to this time had been unprecedentedly prosperous, was destroyed, and energy and capital were turned into the channel of manufactures. There was then a revival of that spirit of nationality which gave birth to the war party and again reversed the order of the syllogism to which public action conformed. Between this period of nationality, however, and the one that was observed to direct public opinion under the Federalist administration, there is one point of marked contrast. Agriculture was the important industry in both periods; but, in the former instance, it was commerce that drew to itself such labor and capital as could be freed from the soil, and claimed the greater attention of the legislature. In the second period, manufactures are

observed to have usurped the position in public estimation formerly occupied by trade. A commercial war is always propitious for the establishment of new industries, and in the present case there was developed an intense desire to maintain by law, after the cessation of hostilities, those conditions which secured to industries control over the home market. Then for the first time was it that protection as an independent industrial system forced its way into the history of the United States. The "American System" of protection took its rise out of the struggle of contradictory purposes which the record of the first twenty-five years of national existence discloses,—a system which, looked at in its inception and growth, must be regarded as the formulated purpose of this people to throw off completely the yoke of colonial dependence. The theory of interpretation, therefore, which alone can give unity to this first period of revenue history is that the protective purpose was a subordinate part of a permanent and a strong political purpose, and he who undertakes to explain it from the standpoint of trade interests alone can never hope to touch bottom.

## Early Sentiments Respecting Commerce.

One could hardly expect that a mere statement of this theory of interpretation would procure its immediate acceptance, although it will, I apprehend, be quite generally acceded to if the first tariff law of 1789 and the report upon manufactures by Hamilton in 1791 can be brought into harmony with its claims. Subsequent State papers and revenue acts, even upon their face, support rather than contradict the theory. The real question at issue, then, has reference to the sentiment and the purpose which determined these first revenue laws.

Some light may be thrown upon the question by discovering the opinions of eminent statesmen of this period with respect to trade and commerce. Inferential testimony may be

found in the quick acceptance on this side of the water of the doctrines of Adam Smith. It may be regarded as at least a curious coincidence that the "Wealth of Nations" and the Declaration of Independence were presented to the world during the course of the same year. This work of the great Scotchman has probably exerted more influence in forming the character of the Nineteenth Century than any other one book published. It served as the intellectual basis for the establishment of a system of industrial freedom. The mental process which led to its conception was altogether analogous to that which resulted in the declaration "That these United Colonies are, and of right ought to be, Free and Independent States." Its reasoning was hurled against that system of commercial usurpation which gave tone to the entire political life of the Eighteenth century, and it was the yoke of this same system resting upon the American Colonies that caused them passionately to sever all bonds uniting them to the country of their ancestry.

It would be both interesting and instructive to trace the influence exerted by the writings of Adam Smith upon the early development of this country. In looking over the speeches, pamphlets and letters of the day, one finds frequent allusions to the "Wealth of Nations," showing that it was a work well known and quite generally endorsed. For example, in a private letter written by Fisher Ames while a member of Congress, in speaking of Mr. Madison, we find the following: "He adopts maxims as he finds them in books. . . . One of his first speeches in regard to protecting commerce was taken out of Smith's Wealth of Nations."[1] Or again, if Mr. Gallatin be accepted as authority, the framers of the Constitution had in mind certain distinctions made by Adam Smith when they adopted into that instrument the words "capitation, direct, and indirect tax." After defining these terms as he understood them, Mr. Gallatin adds: "It

[1] Letter to Minot, May 29, 1789.

may not be improper to corroborate it [this is his interpretation of the phrases] by quoting the author from whom the idea seems to have been borrowed," and he then proceeds to quote from the second chapter of the fifth book of the "Wealth of Nations."[1] Monroe, in a letter to Jefferson, cited "a Mr. Smith on the Wealth of Nations" as having written "that the doctrine of the balance of trade is a chimera,"[2] and if one desire the source from which Hamilton drew the anti-physiocratic argument in his report upon manufactures, he will find it in the Wealth of Nations.[3]

These facts are cited as proof that our early statesmen knew and appreciated the worth of Adam Smith's writings. This fact is not at all peculiar when we recognize the position held by the American States in reference to the old colonial system. Many of these men regarded Adam Smith as one who had reduced to literary form their own political beliefs. His disciples in England were their friends, and they desired, so far as possible, to realize in this new land his ideal of commercial freedom. Their appreciation of this work shows the philosophical purpose of their political endeavors, and common fairness in writing history requires that their actions be brought into harmony with this purpose, or that the reasons for departing from it be pointed out.

We are not, however, confined to inferential testimony. It certainly stands for something that in the Declaration of Independence itself one finds a demand for unshackled commerce. In that long list of indictments against George III. there stood this charge, that, under the guise of "pretended legis-

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[1] Sketch of United States in 1796, p, 12. Old edition. By Albert Gallatin.

[2] Monroe to Jefferson, June 16, 1785, MS. See Bancroft, History of the Constitution, vol. I., p. 195.

[3] I confess I am not fully satisfied as to the connection here suggested or the meaning of the quotation marks inserted in the report. But that some connection exists, may be seen by comparing the Report with Book IV., ch. 9, of Smith's Wealth of Nations.

lation," he had cut off "trade with all parts of the world." It must be remembered that this was before the rise of that doctrine of protection which depreciates profits arising from commerce, and which over-estimates the productivity of labor devoted to manufactures; and, since this country had no thought of colonies for herself and so could not have regarded protection from the European point of view, this charge must be interpreted as a demand for freedom of trade.[1] It is also a very significant fact that the Constitution declares against restrictions upon trade between the various States,—a provision in our organic law which has probably been more potent than any other in maintaining national integrity and unity upon American soil.

The sound judgment which Mr. Bancroft has shown as a student of American history will hardly be denied, and it is with especial pleasure that his language may be quoted in support of the position here taken. In speaking of the relations existing between this country and Great Britain in 1783, he says:[2] "In America there existed as yet no system of restrictions; and congress had not power to protect shipping or establish a custom house. The States as dependencies had been so severely and so wantonly cramped by British navigation acts and for more than a century had so steadily resisted them, that the desire of absolute freedom of commerce had become a part of their nature. The American commissioners were very much pleased with the trade bill of Pitt, and with the principles expressed in its preamble; the debates upon it in parliament awakened their distrust. Their choice and their offer was mutual, unconditional free trade, but, however

[1] The question suggested by this comparison is a most interesting one. There is an essential difference in theory between that protection which formed a part of the Mercantile or Colonial system, and that which now controls States, and which may properly be termed internal protection. A comparison of these two systems would form a most instructive economic monograph.

[2] History of the Constitution of the United States, Vol. I., p. 64.

narrow might be the limits which England should impose, they were resolved to insist on like for like." After stating somewhat fully the interests in controversy, he continues: "Such was the issue between the ancient nation which falsely and foolishly and mischievously believed that its superiority in commerce was due to artificial legislation, and a young people which solicited free trade." In a diplomatic conversation that occurred between Mr. Pitt and John Adams two years later, 1785, there is a question and reply very significant for our present purpose which I venture to paraphrase as follows. Referring to a treaty of commerce, Mr. Pitt asked: "What are the lowest terms which will be satisfactory to America?" To this inquiry Mr. Adams replied diplomatically, pointed out his want of power to give a final answer to such a question, then ventured to state what, in his opinion, would secure to England "the friendship of the United States and the essence of their trade." To this he added: "The most judicious men in America have been long balancing in their mind the advantages and disadvantages of a commerce entirely free on the one side, and a navigation act on the other. The present time is a critical one. The late intelligencies from all parts of America concur with the navigation act of Massachusetts in proving which way the balance begins to incline, and, in my opinion, the issue will be decided by the conduct of this country; indeed, it now lies in your power to decide it. But the more Americans reflect upon the great advantages which might be derived from a navigation act, the more attached will they become to that system." Later in the conversation, Pitt asked if the Americans could think hard of the English for encouraging their own shipwrights, their manufacturers of ships, and their own whale fishery. "By no means," said Mr. Adams, "but it appears unaccountable to the people of America, that this country [England] should sacrifice the general interest of the nation to the private interest of a few individuals interested in the manufacture of ships and in the whale fishery, so far as to refuse these remittances from

America, in payment of debts, and for manufactures which would employ so many more people, augment the revenue so considerably, as well as the national wealth, which would, even in other ways, so much augment the shipping of the nation. It is looked upon in America as reconciling yourself to a diminution of your own shipping and seamen, in a great degree, for the sake of diminishing ours in a small one, besides keeping many of your manufacturers out of employ, who would otherwise have enough to do. This is contrary to the maxim [a maxim which Pitt had admitted] that one nation should not hurt itself for the sake of hurting another, nor take measures to deprive another of any advantage, without benefitting itself."[1] This conversation took place upon the 24th of August. Nine days after, in a letter to Governor Bowdoin, John Adams wrote: "The Massachusetts has often been wise and able; but she never took a deeper measure than her late navigation act. I hope she will persist in it even though she should be alone." He hoped that by persistance in restriction America would secure ultimate freedom. In a letter to Jefferson, his view upon restrictions and the use to be made of them is expressed in this language. "I should be sorry to adopt a monopoly, but driven to the necessity of it, I should not do things by halves. If monopolies and exclusions are the only arms of defence against monopolies and exclusions, I would venture upon them without fear of offending Dean Tucker or the ghost of Doctor Quesnay."[2]

The sentiments of John Adams as here expressed properly represent the views of the early American statesmen, and his

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[1] Letter from Adams to Jay, August 25, 1785.

[2] Dean Tucker was an English writer who advocated separation from the colonies and freedom of intercourse, claiming that every substantial advantage could, in that manner, be retained. See, for example, "Four tracts on Political and Commercial subjects," 1770, pp. 202 to 224; being part of Tract IV., "The Interest of Great Britain Set Forth in Regard to her Colonies." Doctor Quesnay was the founder of a school of Economists in France, that advocated commercial freedom. His first important work, "Tableau Économique," appeared in 1758.

characterization of the birth of restrictive ideas among the people is one that will stand the test of a most exhaustive study. It was the impetus of this sentiment that cemented the independent States into a central government and carried to success the establishment of the first revenue law. The restrictions in this law were counter-restrictions, and the protection it afforded was primarily protection against that system of commercial usurpation which England had undertaken to enforce.[1] Here is presented the first phase of that permanent policy which afterwards came to be known as the "American System." It seems never to have occurred to some who attempt to interpret this law, that words have historic meanings and cannot safely be wrested from the settings in which they were presented; such writers also fail to recognize that to demand protection against open competition with foreign producers calls for a radically different mental attitude from that assumed by those who voted for the first revenue act. The demand for protection in this instance, as well as the grant of protection, was indissolubly bound up with the political purpose of that day, and may, I think, be most easily understood, if confined to the wish of the American people for participation in the carrying trade of the world.

But, it may be asked, suppose this be admitted so far as "protection" is concerned, can the phrase "encouragement of manufactures" found in the preamble to the law of 1789 be explained in the same manner? This phrase appears to have presented no very definite idea to the minds of those who early made use of it, although so far as form is concerned, there is here found something quite analogous to protection from competition for the sake of the industry. At its incep-

[1] "The Americans" said Mr. Adams to Mr. Pitt, "think that their exclusion from your West India Islands, the refusal of their ships and oils and other things, and their exclusion from your colonies on the continent and Newfoundland, discover a jealousy of their naval power, and a fixed system of policy to prevent the growth of it; and this is an idea that they cannot bear."

tion, however, this too was based upon a deep political purpose. The germ of this desire for manufactures, even though they must be artificially fostered, is found in the determination of the American people to be independent of England, first, because they were denied political rights, but afterwards, because they were refused open markets for American produce. This desire appeared very early and found its expression in public meetings, in resolutions, and in inter-colonial agreements against the consumption of foreign productions. Perhaps the manifestation of this spirit in Georgia is as interesting and instructive as any that may be presented.[1] In 1775, the Provincial Assembly passed resolutions refusing to use imported goods. Georgia had been omitted from the application of the "bill restraining trade," but "looked upon this exception rather as an insult than a favor." The sentiment of these resolutions portrays no appreciation whatever of the restrictive policy as a means of effecting the establishment of manufactures. They may be more properly characterized in the language of the present, as showing the determined purpose of "Boycotting" not only the English merchants, but any home dealer or American colony that should hold intercourse with England before certain alleged grievances should be redressed. This also was the purpose of the agreement between the merchants of Boston, New York, and Philadelphia in 1768.[2] Self-dependence having been suggested in this manner, it became the fashion for public men to appear in home-spun suits and to praise any endeavor to establish home industries; and it is not at all strange that they who were benefitted by the creation of this home-demand should press the desirability of maintaining these self-imposed restrictions by legal enactment. It was in this manner that, through the lapse of years, what at its inception was a mere political purpose grew into an established industrial theory. The

[1] Stevens' History of Georgia, Vol. II., p. 111.

[2] Watson's Annals of Philadelphia, Vol. II., p. 272.

important point, however, for us to notice is, that the form of the argument then used was entirely different from that employed now by those who desire to pursuade men to adopt the same measures. The argument then regarded as convincing was: 'The sure way to establish nationality is to exclude foreign products;' now, on the other hand, we hear: 'The sure way to become rich is to exclude foreign products.'

How far toward the acceptance of this fully developed idea of protection public sentiment had arrived in 1789, is a question most difficult to answer. The evidence upon which it is necessary to rely is found in the previous action of the States, and in the discussions that attended the enactment of the first law. So far as the Navigation acts of the several States are concerned, they were passed as temporary measures looking toward the granting of larger powers to the central government, and so are of comparatively slight importance; but besides these there are certain tariff acts that show somewhat clearer ideas of protection for the sake of the industry. Thus, in the year 1785, the State of Rhode Island raised her import duties from five to twenty per cent., for the purpose, as the preamble stated, of encouraging manufacture within this State of the United States.[1] Pennsylvania also passed an act after six months' deliberation to "protect the manufacturers."[2] There appears to be no good reason for believing that these laws did not mean what they state, and we are therefore compelled to admit that, in these localities, a foreshadowing of the modern restrictive system is discoverable. The only question is, how far did these ideas permeate the entire country, and at what point in their development did they become general.

With regard to the debates in the first Congress it appears to me that they have been sadly mis-apprehended.[3] That one

[1] Arnold's History of Rhode Island, Vol. II., p. 513.

[2] Bancroft, History of Constitution, Vol. I., p. 187.

[3] Mr. Benton's interpretation of these discussions is in harmony with the one here presented. See note in "Abridgements of Debates," Vol. I., p. 84.

may find here expressions contradicting all liberality of sentiment, that after a few days the deliberations of this first Congress degenerated into "a grand grab struggle between interests and sections," and that there was then illustrated as clearly as ever since the folly of endeavoring to secure the benefits of protection to all interests, is not denied; but, notwithstanding this, it is urged that the conscious formulation of a protective system except as a subordinate part of a political purpose, can be found only in a period much later than 1789. Here again the environment of the discussion and an appreciation of what was not said is essential for a rational interpretation.

Thus, in the first place, consider the magnitude of the question at issue in this first debate, and the solicitude with which the leading statesmen must have regarded the course of the discussion. The fact that the Constitution had been adopted, or rather that consent to a document had been forced from a reluctant people, by no means guaranteed to this country a stable Government. The question at issue was: Is this document a piece of waste paper, or does it contain the organic law of a self-governing people? The answer was simple: If revenue can be secured upon the basis of some law which goes forth from Congress with practical harmony of sentiment, the new State will stand forth a fact; without a law thus presented, the labor of years will prove abortive. It is the magnitude of the question at issue that explains that courtesy and willingness to make concessions on the part of the leader of the House, a willingness that would hardly have appeared had the permanency of the government been ensured. The history of this discussion does not seem difficult to understand. Mr. Madison, recognizing the importance of funds, introduced, immediately upon the organization of the House, resolutions to the effect that the five per cent. impost act of 1783 should be accepted as a model after which to shape a temporary law. Mr. Boudinot followed the presentation of these innocent resolutions, saying that, as

he understood it, the proposed law would be but a temporary arrangement "calculated to embrace the spring importations," and added a motion" that the blanks be filled up in the manner they were recommended to be charged by Congress in 1783. Mr. White wished more time to think of the matter, and Mr. Madison said, "certainly," and seconded the motion that the committee rise. Upon the next day, Mr. Lawrence (afterward advocate for protection on beer) expressed his approval of the resolutions, but suggested that it would be less confusing "to lay a duty at a certain rate per cent. on the value of all articles without attempting an enumeration of any." He was followed by Mr. Fitzsimmons of Pennsylvania, who deprecated a temporary system and proposed that the matter be undertaken thoroughly, and that the revenue law be shaped for protective purposes. After two speeches opposed to this suggestion, Mr. Hartly of the same State arose and presented a set argument for protection. It was at this juncture that Mr. Madison made that speech so frequently quoted, but as frequently mis-interpreted, in which he said: "I own myself the friend of a very free system of commerce." A polemical historian says of him in the spirit of criticism: "He was one of those who believe that a doctrine can be true and its application unwise." He who would understand this speech must appreciate Mr. Madison's position. He was a member of a deliberative body that had no precedents whatever. No vote had as yet been taken in the House indicating how party-lines might form, and he could count on no following; nor had he any sure way of forecasting public sentiment. He conceived that the success of the new Constitution depended upon presenting to the country a revenue law to which all members of Congress should be equally committed. What would have been the result if Mr. Madison had been less timid, it is of course useless at present to conjecture, but the fact seems to be, that, rather than permit faction lines to be drawn before ways and means could be provided for the new government, he was willing to make

great concessions, and he did make the concession of allowing the debates to proceed upon the assumption of protection rather than run the risk of alienating the Pennsylvania delegation.[1] If this theory of the debates be the true one, it follows that the phrase "encouragement and protection of manufactures," in the preamble, is the price paid for substantial harmony in presenting this first revenue act to the country,—a compromise the more readily acceded to because protection was then regarded by all as but an incident to the securing of revenue, and, contrary to the wish of the protectionist advocates, the law was declared a temporary measure.

But what shall be said of the Hamilton report upon manufactures? Does not this show the presence of industrial protection as an independent, aggressive factor? It is assumed that the facts of this report are well known, and we are therefore excused from a re-statement of them. Nor is it of present importance that this report is, in many of its parts, illogical and contrary to sound economic doctrine, for we are concerned alone with its historical interpretation.

Attention has been already called to the fact that the desire for a strong government, which, prior to 1789, sprang spontaneously from the experienced evils of executive weakness, came to be the controlling motive of the first administration under the new Constitution, and the true significance of this report upon manufactures can only be discerned in the light of this fact. Many measures had been already taken to induce coherency in the system before the appearance of this paper. A National Bank had been established, the refunding scheme set on foot, assumption of State debts pressed to acceptance, and steps taken towards providing for national coinage. All these measures were under the guidance of one very simple definite purpose which gave direction to the

[1] It is claimed that the Morrill tariff was the price paid by the Republican leaders for the adherance of Pennsylvania to the party in 1861. Compare Sumner's "Protection in the United States," p. 56.

thought of the Federal party, and this purpose was to secure executive centralization and to build up a sentiment of nationality. This report upon manufactures must be viewed in the same light and take its place by the side of these other measures; indeed, it cannot be separated and treated as an isolated State paper without doing violence to plain rules of historical interpretation. It seems legitimate, therefore, to conclude that the protectionist sentiment which gave rise to this report, as well as that in the community to which it appealed, was very far from being a sentiment merely industrial in character or resting wholly on an industrial basis; indeed, one is warranted in saying that it proves the total subordination of the industrial to the political problem. Can one think that Bismarck honestly believes that his newly-enacted corn laws will enrich the people of Germany? What he wants is nationality at any cost. This is what the leaders of the Federal party wanted in 1791, and it is this political purpose, rather than any industrial theory, that is the key to the real meaning of Hamilton's report upon manufactures. This interpretation harmonizes perfectly with what Hamilton avowed as his purpose, "to let the thirteen states, bound together in a great indissoluble union, concur in erecting one great system superior to the control of trans-atlantic force or influences, and able to dictate the connection between the old and new world."

Another fact, significant as pointing toward this same theory of interpretation, is found in the further development of the general financial policy of the government. The average rate of duties imposed by the law of 1792, which is said to realize the purpose of the Hamilton report, was but thirteen and one-half per cent., and this extension was justified by the need of revenue to protect the frontiers. The two and one-half per cent. addition to the list of un-specified articles, bringing the rate up to seven and one-half per cent., was limited by the law to two years, when it was supposed the exigency would have passed. Until the expiration of

these two years, no new tariff act was presented, and, after that, there were no decided changes of a protective character. But the point of importance for us is, that the rate of customs had by no means reached the limit which experience has shown to be the highest revenue rate; yet, notwithstanding this, there was introduced and developed by this Federal party (supposed to be a party adopting protective theories) a general system of internal duties. Had the rate upon customs reached twenty or twenty-five per cent., this resort to excise could be explained even upon the assumption of protection, but the introduction of other taxes while customs rates were far below the revenue standard, shows that there was no understanding, or at least no appreciation of a fully developed system of protection in the control of the treasury department. And further, it must be remembered that excise duties, when placed on articles with which foreign articles compete, counter-act the protective force of the customs tariff, and this was the case so far as beer and spirits were concerned. It seems, therefore, proper to say, without pressing the statement too far, that the subsequent development of treasury-management does not show such strict adherence to the principles of the report upon manufactures as to warrant one in reading from it the formulated opinion of the country. It afterwards became a State paper of importance, when the reputation of its author could be used to bolster up a system which had developed so far as to invite criticism; but, at the time of its appearance, it is very doubtful if its full significance was appreciated.[1]

Reference must be made to one other line of testimony. There were petitions presented to Congress from manufacturers and ship-builders praying for protection, and these are frequently referred to for the purpose of showing the existence of a protectionist sentiment. I do not pretend to have

[1] This Report was ordered to be reprinted in 1809. Other events in that year fore-shadow the later development of protection.

examined all these petitions, but my impression is that, while they may indicate the presence of protectionist ideas in a slight degree, they by no means prove the prevalence of those ideas, nor that the question had ever been brought fairly before the public mind. The general fact is, that, about the year 1789, some considerable number of petitions were presented to Congress. But when, as will be explained hereafter, American shipping had secured the greater part of the world's carrying trade, the desire for manufactures seems to have passed away. When the treaty of Amiens gave peace to Europe in 1802, and European powers reclaimed their own commerce, petitions again made their appearance; but the interest which they evinced again disappeared when hostilities were renewed in the old world. There was, indeed, no decided movement toward manufactures till 1808, the year which marks the first downfall of American commerce. From this time on, one observes the ever-growing importance of petitions in the management of affairs in the United States, or, what amounts in principle to the same thing, the ever-growing importance of the "Third Branch of the Legislature." Government by petition is government by special interests, and for that reason one must be very careful in accepting requests for special legislation as evidence of public sentiment. Yet, giving all the weight that is claimed for petitions, it appears that they were not at all significant during the period we are studying, nor does Congress seem to have granted them much attention. Moreover, it should not be forgotten that they are to be interpreted in the same manner as the desire for independence of foreign, *i. e.*, English producers, and, in consequence, find their origin quite as much in political as in industrial considerations. A quotation from one of the petitions presented in 1789, will most clearly portray this phase of interpretation. It is as follows: "Your petitioners were early led to fear . . . . that their country, having gained the form of liberty, had left in the hands of their enemies the instrument of oppression and the

spirit to exercise it. They soon perceived that their prospects of improving wealth were blasted by a system of commercial usurpation, originating in prejudice and fostered by a feeble government."[1]

The conclusion, then, to which this perhaps too extended discussion leads is, that the idea of protection in the United States was not in its origin a distinctly formulated industrial conception, but rather a subordinate part of a more extensive and decidedly aggressive political purpose; that, in the working out of this political purpose, especially after 1807, there were introduced conditions decidedly propitious to the growth of a protective policy as such; and that, in 1816, it stood forth no longer a subordinate part of a general policy, but itself an independent policy, making claims that would have startled the earlier statesmen. For an historical student, this may be pertinently presented by imagining the John Adams of 1783, and the John Quincy Adams of 1824 or 1828, indulging in a family chat on free trade and protection. The father would hardly have understood what the son meant.

The theory of interpretation here maintained can alone give continuity of development to the first twenty-five years of American history. Ideas such as are found in the American system of protection could not have sprung up in a day. The evidence is strong that, in 1783, fair treatment on the part of England would have secured freedom of commerce from the United States. But few of the States had expressed anything akin to protective tariffs in their laws, and, to suppose that, in 1789, the policy of trade restrictions stood forth as itself a master policy, is to assume an exception to all ordinary rules of historical development. For another such record of rapid development one must go beyond the limits of history and turn to those pages in Grecian mythology, describing the birth and growth of Hermes, the god of trade.

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[1] American State Papers, Finance, Vol. I., p. 9.

In the morning an innocent babe, before the sun had reached the zenith, he had stolen and slaughtered the cattle of Apollo. It was from the commercial war of 1812 that the "American system" emerged, claiming for the first time in its own right the attention of the public. In 1794, Fisher Ames, a "protectionist," expressed surprise that manufacturers should like taxes rather than no taxes; and upon a motion to reduce the duties upon sugar said: "If the money was not likely to be wanted at all, it would be one good cause for dropping the taxes." Tench Coxe, writing the same year upon the American tariff, said: "It has been frequently observed in the course of the preceding pages, *that the duties laid for the purpose of revenue*, on foreign manufactures imported into the United States, are a great encouragement to similar articles, which are or shall be manufactured in this country."[1] In 1816, Clay declared for "a thorough and decided protection to home-manufactures by ample duties," and Mr. Ingham who supported him said: "The revenue was only an incidental consideration, and ought not to have any influence in the decision upon the proposition before the committee." The public sentiment which controlled the first Congress cannot be brought into harmony with that which controlled the fourteenth, or, indeed, with that which is potent with the Treasury Department to-day, and a true presentation of financial history must recognize this fact.

Including the tariff law of February 5, 1816, there were twenty acts of Congress during the first quarter of a century in our National history, relating to customs duties. It would be wearisome to speak in detail of all these acts, and in order to avoid such a necessity it has been my purpose to present in the following table, in a manner easily to be followed, the more important modifications of the tariff-system. Those articles only which are significant have been selected.

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[1] View of the United States, p. 458.

| | Iron of various kinds. | Steel, per cwt. | Cables, per cwt. | Linens. | Cottons. | Woolens. | Raw Cotton. | Glassware. | Carriages. | Salt, per bushel. | Gen'l *ad valorem* duties. | Teas, per pound. | | | Wines per gallon. | Spirits, per gallon. | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | | | | | In American Ships from | | Otherwise imported. | | Distilled from grain. | Distilled from other material. |
| | | | | | | | | | | | | China. | Europe. | | | | |
| 1789 | 7½ | 56 | 75 | 5 | 5 | 5[2] | free | 10 | 15 | 10 | 5 | 6–20 | 8–26 | 15–45 | 10–18 | 8–10 | |
| 1790 | ... | 75 | 100 | ... | 7½ | ... | 03[1] | 12½ | 15½ | 12 | ... | 10–32 | 12–40 | 15–50 | 20–35 | 12–25 | |
| 1791 | ... | ... | ... | ... | ... | ... | ... | ... | ... | ... | ... | ..... | ..... | ..... | .....[3] | 20–40 | |
| 1792 | 10 | 100 | 180 | 7½ | ... | 7½ | ... | 15 | ... | ... | 7½ | ..... | ..... | ..... | 20–56 | 28–50 | 25–46 |
| 1794 | 15 | ... | ... | 12½ | 12½ | 10 | ... | ... | 20 | ... | 10 | ..... | ..... | ..... | ..... | ..... | ..... |
| 1797 | ... | ... | 02[1] | ... | 15 | ... | ... | ... | ... | 20 | ... | 12–32 | 14–40 | 17–50 | ..... | ..... | ..... |
| 1800 | ... | ... | ... | ... | ... | 12½ | ... | ... | ... | ... | 12½ | ..... | ..... | ..... | ..... | ..... | ..... |
| 1804 | 17½ | ... | ... | 15 | 17½ | 15 | ... | 17½ | 22½ | ... | 15 | ..... | ..... | ..... | 28–58[3] | ..... | ..... |
| 1812 | 35 | 200 | 04 | 30 | 35 | 30 | 06 | 35 | 45 | free[4] | 30 | 24–64 | 28–80 | 34–100 | 56–116 | 56–100 | 50–92 |

[1] Per pound.
[2] This is for unspecified woolens.
[3] Wines not specified charged 40 per cent. *ad valorem*.
[4] This article was made free in 1807, and charged again with 20 cts. per pound in 1813.

A glance at the foregoing table shows the constantly increasing rate of charges imposed by the government, beginning with the modest rate of five per cent. upon the general list, and rising to thirty per cent., yet every increase was in the presence of some demand that the administration regarded as pressing. The act of 1790 was to meet the financial necessities of the funding schemes. The law of 1792 was to raise money for the protection of the frontiers, and is especially interesting as embodying the Hamiltonian notion of protection. In his communication to Congress, Hamilton expressed the hope that in two years the exigency calling for increased revenue would pass away and that the rate upon the general list might be reduced, but, in 1794, not only was it found necessary to retain these duties, but to impose new. The law of 1797 was forced upon Congress by threatened foreign complications. "The French Revolution had just reached the highest point of settled delirium," and, though it was the desire of Mr. Adams and his cabinet to maintain strict neutrality, it was regarded as safe to expend something upon a navy. This law was really of more financial significance than appears from the table, for it not only imposed new duties, but made permanent those sections of the acts of 1792 and 1794 that terminated with 1797. The two and one-half per cent. increase of duties upon all imports (with ten per cent. additional if imported in other than American vessels) by the act of March 26, 1804, was to provide funds for the protection of commerce and seamen against the Barbary Powers, and formed what was called the "Mediterranean fund." The act declared that this fund should cease three months after the conclusion of a treaty of peace with Tripoli. This event occurred in 1805, but the fund was continued by yearly acts till 1813, when it was made permanent, and so remained till March, 1815. The alleged temporary character of many of these laws, as notably the laws of 1792, 1794, and 1804, is perhaps the most singular fact in this period of our tariff-history, and the fact that no important duty once imposed,

except that upon salt, was ever relinquished, shows with what ease and certainty a people may learn to bear taxes. No period in our history illustrates this more pertinently, unless it be the years after the outbreak of the Rebellion. The doubling of all duties in 1812 was expressly termed a war-tax, and was imposed for the purpose of securing means to carry on the struggle against England, a struggle that the war-party had at last succeeded in drawing upon the country. Whether or not it be in harmony with sound rules of finance to raise the rates of customs duties on the event of a commercial war, is a question that will be reserved for later consideration.

It is always regarded as significant information respecting the workings of a tariff-system, to learn the rates actually paid on goods imported. It is the purpose of the following table (p. 39) to present this information.

It is proper to say that these figures are estimates and therefore must be interpreted with some caution. The official returns for these years do not give the value of goods imported that are charged with specific duties, but the quantities only. For general purposes, however, the percentage-results may be relied upon, and the lesson which they seem to enforce is the unsteadiness in the actual rate of taxation previous to 1817, so far as the revenue system was based upon customs duties. One of the great delusions of American financiering is its over-estimation of the importance of tariff-laws. The secret of their approbation is simply that, in their workings, they are obscure.

It yet remains for us to consider briefly the technicalities of the tonnage-acts. In May, 1789, a resolution passed the House of Representatives to the effect that American-built vessels, owned by citizens of the United States, should pay, upon entering any port of the country, a duty of nine cents per ton; if of foreign build but owned by American citizens, six cents per ton; vessels belonging to subjects of foreign powers with which the United States had commercial

treaties, thirty cents per ton; while vessels belonging to subjects of any other power should pay at the rate of fifty cents per ton. The Senate would not agree to this discrimination between foreign peoples, and the House was obliged, although

| Year. | Value of Imports. | Imports for consumption. | Receipts from customs. | Percentage of customs on importation for consumption. | Percentage of customs on total imports. |
|---|---|---|---|---|---|
| 1791 | $ 29,200,000 | $ 28,687,959 | $ 4,399,473 | 15.34 | 15.07 |
| 1792 | 31,500,000 | 29,746,902 | 3,433,070 | 11.54 | 10.89 |
| 1793 | 31,100,000 | 28,990,428 | 4,255,306 | 14.68 | 13.68 |
| 1794 | 34,600,000 | 28,073,767 | 4,801,065 | 17.10 | 11.27 |
| 1795 | 69,756,268 | 61,266,796 | 5,588,461 | 11.21 | 8.01 |
| 1796 | 81,436,164 | 55,136,164 | 6,657,987 | 12.02 | 8.17 |
| 1797 | 75,379,406 | 48,379,406 | 7,549,649 | 15.60 | 10.02 |
| 1798 | 68,551,700 | 35,551,700 | 7,106,061 | 19.99 | 10.37 |
| 1799 | 79,069,148 | 33,446,148 | 6,610,449 | 19.70 | 8.31 |
| 1800 | 91,252,768 | 52,121,891 | 9,080,932 | 17.42 | 9.95 |
| 1801 | 111,363,511 | 64,720,790 | 10,750,778 | 16.61 | 9.66 |
| 1802 | 76,333,333 | 40,558,362 | 12,438,235 | 30.67 | 16.29 |
| 1803 | 64,666,666 | 51,072,594 | 10,479,417 | 20.52 | 16.21 |
| 1804 | 85,000,000 | 48,768,403 | 11,098,565 | 22.76 | 13.06 |
| 1805 | 120,600,000 | 67,420,981 | 12,936,487 | 19.19 | 10.73 |
| 1806 | 129,410,000 | 69,126,764 | 14,667,698 | 21.22 | 11.35 |
| 1807 | 138,500,000 | 78,856,442 | 15,845,521 | 20.09 | 11.49 |
| 1808 | 56,990,000 | 43,992,586 | 16,363,550 | 37.22 | 28.71 |
| 1809 | 59,400,000 | 38,602,469 | 7,257,506 | 18.80 | 12.22 |
| 1810 | 85,400,000 | 61,008,705 | 8,583,309 | 14.07 | 10.02 |
| 1811 | 53,400,000 | 37,377,210 | 13,313,222 | 35.62 | 24.93 |
| 1812 | 77,030,000 | 68,534,873 | 8,958,777 | 13.07 | 11.63 |
| 1813 | 22,005,000 | 19,157,135 | 13,224,623 | 69.03 | 60.09 |
| 1814 | 12,965,000 | 12,819,831 | 5,998,772 | 46.79 | 46.27 |
| 1815 | 113,041,274 | 106,457,924 | 7,282,942 | 6.84 | 6.44 |
| 1816 | 147,103,000 | 129,964,844 | 36,306,874 | 27.94 | 24.69 |

quite reluctantly, to abandon its purpose. This seems to have been a favorite policy with Madison, and at first looks like the strongest kind of protection, but the idea upon which it was based was rather that an unfriendly foreign power could be forced into friendly relations by discriminating commercial

regulations. This was the reciprocity-policy in which Jefferson professed a belief, and it was the policy that gave form to the first phase of the "American System." The debates in regard to this whole question are very significant for the historian, since the opinions expressed in them forecast those two lines of foreign policy which controlled American politics for so many years. At present, however, we are precluded from entering upon a detailed analysis of them.

The tonnage act, as approved, made no distinction between the ships of foreign powers. It did, however, decidedly favor American shipping. The rate imposed upon American-built and American-owned ships was six cents per ton, while foreign-built and foreign-owned vessels were charged with thirty cents, and vessels both built and owned by foreign subjects were imposed with an entry-fee of fifty cents per ton. In this manner did the United States attempt to pay back England in her own coin and to maintain a share in the carrying trade.

The foreign relations, in view of which the first tonnage and tariff acts were passed, have already been presented; in order, however, to understand the workings of the system thus established, it will be necessary to go a little farther into the subject and notice some facts in European politics which materially affected not only the sources from which revenue arose, but also the further development of the system.

The period which thus comes under observation is one of public disorder. Europe was thrown into commotion in consequence of the French Revolution, and it was found impossible for even neutral states to escape the results of hostilities. In 1793, Great Britain, Spain, Prussia, and Germany entered into an alliance, which, in addition to prohibiting exportation of stores from their own ports to France, bound the contracting parties "to take all other measures in their power for injuring the commerce of France," and to unite their efforts "to prevent all other powers not implicated in this war, from giving, on this occasion of common concern to every civil-

ized State, any protection whatever, directly or indirectly, in consequence of their neutrality, to the commerce and property of the French, on the sea or in the ports of France."[1] The United States was the only nation of importance not drawn into this controversy, and her policy, openly declared, was to maintain the strictest neutrality. On the 16th of December, 1793, Jefferson, who was then Secretary of State, submitted to Congress a report upon the Commercial relations which the United States sustained to the nations of the world. From this report it appears that the policy of the European States was to prohibit, either by edict or high duties, all American produce, when such produce, even at greater cost to themselves, might be derived from their own colonies. Thus European States hoped to retain the trade of their own possessions. To meet these restrictions Jefferson knew of but two methods: friendly relations, or counter-legislation. He much preferred the former. "Would even a single nation," said he, "begin with the United States this system of free commerce, it would be advisable to begin it with that nation." But since no nation was willing to enter upon such relations it was his advice to Congress to adopt measures founded in reciprocity, "to return to each nation exactly what the United States received from it."[2] Upon the basis of this report, Madison based those resolutions which revived the rejected policy of 1789, but this time, in addition to discriminating tonnage duties favoring nations in alliance with the United States, he proposed special duties on leather, metals, cotton, woollens and silk, the products of nations not joined to this country by treaty; and, with reference to the West India trade, he desired additional duties on all importations by foreign vessels from ports to which American vessels were not admitted. This time, however, he could not carry the House with him. In 1794,

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[1] The proportion of carrying trade done by American ships for England and France respectively, was $3\frac{1}{10}$ to 1.

[2] American State Papers, Vol. I., p. 300.

John Jay was sent to England for the purpose of negotiating a treaty which should secure to this country those rights to which she was entitled on the high seas, but which, by the treaty of the Allied powers, were, to say the least, endangered. It was certainly an opportune time for the negotiation of a treaty. British commerce was for the time rendered uncertain, and British colonies were beginning to suffer from the want of the means of safe exchange. The following table will present clearly the relative effect upon England and America of this period of endangered commerce.

| Year. | American tonnage employed in foreign trade. | British tonnage employed in American trade. |
|---|---|---|
| 1789 | 127,329 | 94,110 |
| 1792 | 414,679 | 206,065 |
| 1794 | 525,649 | 37,058 |
| 1796 | 675,046 | 19,669 |

The treaty which Jay succeeded in negotiating allowed reciprocal trade between British dominions in Europe and the United States; but the twelfth article prohibited the exportation to Europe of commodities which were products of the West Indies, and confined the trade of the United States with British colonies to the extent of our own consumption. This article, however, was rejected by Congress, so that the West India trade was continued under former conditions; that is, it was subject to the regulations of the British orders in council and was based upon sufferance rather than stipulated right.[1]

In order that the treaty of the Allied powers might be enforced, there was issued, from the Council of Great Britain,

[1] Causes and consequences of Orders in Council, by Alexander Baring, p. 24.

an order instructing cruisers "to stop and detain for lawful adjudication all ships laden with goods which were the produce of any French colony, or carrying provisions, or other supplies, for the use of any such colony."[1] The rigor of this was afterward somewhat abated, until by an order of January, 1798, freedom of trade was permitted to neutrals with the colonies of enemies. This order was termed an indulgence and remained in force until the treaty of Amiens.

The French policy in view of the treaty of the Allied powers is found formally expressed in a decree of 1796, which declared that "the French will treat neutral nations in the manner they suffer themselves to be treated by the English." In 1790, American vessels were obliged to take out a "rôle d'équipage" under penalty of being declared "good prizes." In 1798, contrary to the stipulation of the treaty, which declared that free ships should make free goods, a decree was issued, providing that the character of vessels should be determined by that of their cargoes, and that any ship having on board merchandise coming from British possessions should be considered a "good prize," whoever might be the owner of the merchandise. On the assumption that France was in earnest in issuing these decrees, had she possessed a navy adequate to their vigorous enforcement, American shipping must have been swept from the seas; but it is more than likely that these decrees were issued with a view to their effect on American politics, and it is certain that they did not injuriously influence the American carrying trade, which at this time had become considerable.

The answer which the American Congress made to these encroachments was to grant merchant vessels the right of defending themselves from search or seizure, to proclaim void the French treaty of 1778, and to declare as a lawful prize any armed vessel sailing under the French flag.

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[1] One may find all the important Orders in Council, and French Decrees in Seybert's Statistics.

During this period, America, as the only important neutral power, had enjoyed the carrying trade of Europe. While the temporary peace of Amiens lasted, her commerce was restricted to the carrying of her own produce; but, upon the renewal of hostilities, her neutrality again secured to her the lucrative West India trade. This state of affairs continued till the year 1807, when the commercial relations of America to Europe were radically changed. In the first place, the Jay treaty expired and the privileges of direct trade were lost. But the closing in of the two great combatants for the final struggle brought to this country yet greater consequences. Napoleon well knew that the source of England's vitality was her commerce and trade, and that if he could destroy this, his supremacy in Europe was an accomplished fact. This was the purpose of his Berlin-decree which appeared November 21, 1806. This decree closed all European ports to Great Britain and threatened the seizure of American vessels trading in British goods. The rejoinder on the part of England was to subject all vessels to search, and any bound to those ports from which the British flag was excluded were liable to compulsory detention in England. Then followed the Milan decree of 1807, which declared that any vessel submitting to such search should be considered "denationalized." These measures did not, as is the former case, mean a paper warfare, but they meant rather the annihilation of all neutral rights. It was their purpose to force the United States to take one side or the other in this controversy. The French party was at this time in the ascendency, and the regulations of the United States were aimed at England rather than France. In 1807, Congress laid an embargo on all American shipping by means of which it was thought to make England sensible of the dependence of her manufacturies upon this country for raw material. Though severely felt in England, as shown by petitions to Parliament to which the embargo gave rise, the English government refused to alter its policy; but such was the opposition

to the embargo in the United States that, after being subjected to modifications, so as at one time to be a non-exportation act, and at another a non-communication act with England or France, it was wholly abandoned. This occurred in June, 1809. The war of 1812 with its necessary commercial restrictions closes this chapter of commercial orders, decrees, and regulations, the importance of which cannot be overestimated in searching for the true interpretation of this first period of tonnage and tariff-acts. A consideration of the effects of these diplomatic events upon the financial and industrial development of the country, will be reserved till the last chapter of this essay.

## II.—INTERNAL DUTIES AND DIRECT TAXES.

### Internal Duties.

The first form of internal duties laid in the United States was an excise duty upon distilled spirits. The first law for this purpose was approved March 3, 1791, which, however, gave place to the permanent law of May 8, 1792. These bills were not passed without opposition. Those who opposed them urged that they contemplated a tax which was unpopular, and which would be unprofitable because unpopular; that an excise tax of any kind was dangerous to the liberties of the people and would, on that account, meet with especial opposition in the Southern States. Some members expressed themselves as favoring a poll-tax, although, if Mr. Madison's opinions be accepted, the sentiment of neither the House nor the country would admit of a direct tax of any kind. In favor of the bill it was urged that tariff duties had been extended as far as the interests of trade would allow, and that an increase of revenue was essential; also, that the proposed tax would tend to discourage the consumption of spirits, which was very great and hurtful to the health, morals, and economy of the community; and that, in the form in which it was

proposed, it would act as an encouragement to agriculture. The second bill passed the House by a vote of 35 to 21, yet many voted for it who had expressed themselves against the principle of an excise tax, and had it been attempted at that time to extend this form of securing a revenue to any article but spirits, it is doubtful if such an attempt could have succeeded.

By the law of 1792, all spirits distilled within the United States were imposed with an excise duty as follows.

SPIRITS DISTILLED

| *From foreign materials.* | | *From material produced in the U. S.* | |
|---|---|---|---|
| First class of proof, | 10 cts. per gal. | First class of proof, | 7 cts. per gal. |
| Second " " | 11 " | Second " " | 8 " |
| Third " " | 12 " | Third " " | 9 " |
| Fourth " " | 14 " | Fourth " " | 11 " |
| Fifth " " | 18 " | Fifth " " | 13 " |
| Sixth " " | 25 " | Sixth " " | 18 " |

This expression foreign material, as here used, means West India molasses and sugar, as distinguished from barley and corn of domestic growth. From the former was manufactured New England rum, which was conceived to be the most pernicious article of drink known. In addition to this discrimination in favor of whiskies and against rums, it will be remembered that molasses, as a raw material, was already subject to an impost duty. To diminish the manufacture of these pernicious rums by substituting for them spirits distilled from materials which were the growth of home soil, and at the same time to increase the demand for home agricultural products, was the avowed purpose of this discrimination favoring whiskies. For small stills it was made optional with the owner to pay ten cents per month per gallon on the capacity of the still, or seven cents per gallon on the amount of spirits, actually distilled.

Opposition to this form of taxation extended beyond the doors of Congress. In Pennsylvania, North Carolina, Vir-

ginia, and Maryland, there were resolutions passed denouncing the measure; and, as will be remembered, in Pennsylvania the execution of the law gave rise to that chapter in the history of the United States commonly called "The Whiskey Insurrection." It will be impossible to insert here even a brief sketch of this movement, but a presentation of the ideas of the insurgents and of the interests which they conceived to be endangered, may be allowed as pertinent. Under the colonial government of Pennsylvania, there had been two attempts to impose a tax upon spirits, one in 1756, and the other in 1772; but neither had met with any success in the Western counties.[1] A similar effort also on the part of the government of New Jersey had not proved successful, a fact well known in Pennsylvania, while in other neighboring States there had been no excise law. The intelligent opposition to this Federal tax may be found stated in the minutes of the Pittsburg meeting of August 22, 1792.[2] The clerk of this meeting, it may be interesting to remark, was Albert Gallatin, who afterwards came to be the directing member of the Jefferson cabinet. It was urged at this meeting that a tax upon spirits operated in proportion to numbers rather than wealth, and in consequence was unjust in itself and oppressive to the poor; and in addition to this, that all taxes upon articles of consumption, because of the power that must necessarily be vested in the officers who collect them, will in the end destroy the liberty of any people that permits them to be introduced. The course of reasoning here presented is the same as that urged in Congress against a tax on salt, when it was maintained that such a tax was in reality a poll-tax, and as such did not meet the requirements of equality as measured by the amount of property controlled. The condition of the Western counties of Pennsylvania was something of an excuse for the conduct of their inhabitants. Whiskey was so common and

[1] Findley's History of the Insurrection, ch. II.

[2] Pennsylvania Archives, 2nd Series, vol. IV., p. 30.

money was so scarce that the former served as a medium of exchange in trade, yet would not be accepted in payment of the tax, which, computed in money, amounted to fully one-third of the price of the article.[1] The attorney-general, so it is stated, could find no basis for legal proceedings against the insurgents, and it was not until militia had been put on foot by order of the President, that the people were induced to submit. In other quarters of the Union where the execution of the law was opposed, the proclamation of the President sufficed to restore order and secure acquiescence. This, it will be observed, was the first form which opposition to internal duties assumed in the United States.

The second object attached by the system of internal taxation was carriages used "for the conveyance of persons." The permanent law for this purpose, which repealed a law of two years previous, was approved May 28, 1796. These two enactments did not differ as to the mode of apportionment, but the rate of duty was raised by the latter act so that the law, as approved, stood as follows:

| | |
|---|---|
| Coaches driven by box or postilion | $15 per year. |
| Chariots | 12 " " |
| Coaches with panels | 9 " " |
| Coaches without panels | 6 " " |
| Two wheeled top carriages | 3 " " |
| Other two wheeled carriages | 2 " " |

Nothing in this act was to be construed so as to levy any tax upon wagons used in agriculture or for the transportation of commodities.

The execution of this law did not, as in the case of the excise on spirits, meet with open opposition; nevertheless the idea of visible taxes had not become so familiar that their collection was permitted without expressions of disapprobation. In the present instance, the constitutionality of the law

[1] Findley's History of the Insurrection, p. 41.

was attacked in the well known case of Hylton vs. the United States. The ground of argument was simple and the decision direct. The question upon which the case turned was, whether a tax levied under the above mentioned law, was direct or indirect within the meaning of the Constitution; if indirect, it was admitted to be rightly laid; but if direct, the point was urged that it was unconstitutional because not laid by the rule of apportionment prescribed in the Constitution. The Supreme Court decided that the duty upon carriages was not a direct tax, and the reasons submitted in support of this decision were the following: that the Constitution contemplated no tax as direct except capitation and land taxes; that a tax laid upon carriages by apportionment among the several States would be unequal and unjust, since the number of carriages was entirely out of proportion to the federal population in the various parts of the country; also, that indirect taxes include all taxes imposed upon expenses or consumption, and that "a carriage for the conveyance of persons" is a consumable commodity.[1]

From this time opposition to internal duties was confined to political measures. The fact that the Federalists had imposed them and had insisted that the laws should be executed served as a powerful argument in the hands of their enemies during the campaign of 1800.

In 1794, the system of internal taxation was extended so as to include three new sources of revenue. A tax was levied upon the sale of certain liquors, an excise duty was imposed upon the manufacture of snuff and the refining of sugar, and the proceeds of auction-sales were also laid under contribution. The first of these required retailers of wines and foreign spirits to pay a yearly license of five dollars. Snuff was made to bear eight cents, and sugar two cents per pound, when prepared in the United States. The revenue which proceeded from the snuff-tax did not warrant its con-

[1] 3 Dall., 171.

tinuance: it was first changed to a tax upon snuff-mills, which tax, in its turn, was suspended by yearly acts until, in 1800, the duty was abolished.

The tax upon auction-sales was at the rate of twenty-five cents upon every one hundred dollars which were proceeds from the sale of goods connected with husbandry, and fifty cents upon like amounts arising from sale of any other sort of goods. Three years later still another source of internal revenue was opened by the approval of an act levying duties upon certain legal transactions. Stamps were used as the means of collecting this duty, the rates imposed being as follows:

| | |
|---|---|
| Certificate of admission to practice in any United States Court | $10 00 |
| Certificate of Naturalization | 5 00 |
| Any grant under seal of the United States | 4 00 |
| Any certified copy of such grant | 2 00 |
| Certified bonds, etc | 1 00 |
| Any paper requiring the seal of a Court | 50 |
| Any instrument connected with the execution of a will | According to value of instrument. |
| Any insurance policy | |
| All bonds and notes | |

The list of internal duties imposed previous to 1813, and properly falling under the classification of indirect taxes, has now been presented. For the administration of this system, the several States were accepted as revenue districts, each district being divided at the discretion of the President into surveys of inspection. For each district there was a supervisor, and for each survey as many inspectors as the supervisor deemed necessary.

## Direct Taxes.

Notwithstanding increase in the rate of custom dues and the establishment of a system of indirect taxes, the annual income was not adequate to the needs of the government, and, in the

judgment of the administration, it appeared desirable to open yet another source of revenue. The most potent consideration, however, in resorting to direct taxation was found in the threatening attitude of foreign affairs and in the fact that a commercial war would greatly diminish the revenue from customs.

As early as 1794 the special committee on public credit recommended a direct tax of $750,000. In the same report there was also a recommendation in favor of stamp duties; both were at the time rejected, but two years later "the existing and approaching exigencies" appeared so pressing that both measures again found strong recommendation. Mr. Wolcott was at this time Secretary of the Treasury, and a request from Congress for a plan to raise $2,000,000 by direct taxation gave rise to his most important state paper. The problem which the Secretary undertook to solve was by no means a light one. His task consisted in drafting a law which would meet the constitutional requirements of a direct tax and yet be sufficiently elastic to adjust itself to the various customs in the separate States. He first instituted an inquiry respecting the several methods of State-taxation, and the information secured showed that there existed the greatest diversity, both as regards subjects selected for the imposition of taxes, and also respecting methods of apportionment and collection. It would be a weary undertaking to follow minutely this voluminous report, and it has been my purpose to render such a task unnecessary by preparing a tabular statement of its most interesting and pertinent facts.

When one learns that the report from which the following table is drawn covers fifty pages in a quarto volume, he need not be reminded that its salient features only are here presented. For more particular information respecting early local taxation the student is referred to the report itself, which will be found in the first volume of American State Papers relating to the subject of finance. As a study in local administration it contains an abundance of interesting matter. Thus in the

| States. | Uniform capitation tax. | Tax on horses and cattle. | All farm stock valued.[3] | Taxes imposed on mass of property.[4] | Mode of taxing lands. | Collectors appointed. By People. | By Legislature. | By State Executive. | By Court. | By County Officers. |
|---|---|---|---|---|---|---|---|---|---|---|
| Vermont | × | × | ... | ... | According to quantity, if enclosed | × | ... | ... | ... | ... |
| New Hampshire | × | × | ... | ... | According to annual rent | × | ... | ... | ... | ... |
| Massachusetts | × | × | ... | ... | According to annual rent | × | ... | ... | ... | ... |
| Connecticut | × | × | ... | ... | Included in mass of property | × | ... | ... | ... | ... |
| Rhode Island | × | ... | × | × | According to state of cultivation | × | ... | ... | ... | ... |
| New York | ... | ... | × | × | Included in mass of property | × | ... | ... | ... | ... |
| New Jersey | ... | × | ... | ... | *Ad valorem*, according to value in different countries | × | ... | ... | ... | ... |
| Pennsylvania | ... | × | ... | .... | *Ad valorem*, according to triennial assessment | × | ... | ... | ... | ... |
| Delaware | ... | ... | × | × | Included in mass of property | ... | ... | ... | ... | × |
| Maryland | ...[1] | .... | × | × | *Ad valorem*, upon valuation in different countries | ... | ... | ... | ... | × |
| Virginia | ... | ×[2] | ... | ... | According to permanent valuation | ... | ... | ×[5] | ... | ... |
| Kentucky | ... | × | ... | ... | Uniformly by quality, all lands divided into three classes | ×[5] | ... | ... | ... | ... |
| North Carolina | × | ... | ... | ... | Uniformly by quantity | ... | ... | ... | ×[5] | ... |
| South Carolina | ... | ... | ... | ... | Uniformly by districts | ... | × | ... | ... | ... |
| Georgia | × | ... | ... | .... | Uniformly by districts | ... | × | ... | ... | ... |

[1] A poll tax is contrary to the Constitution of Maryland. For a history of the poll tax in Maryland, see an interesting article by L. W. Wilhelm in the *Magazine of American History*, for *January*, 1884.

[2] Cattle excepted.

[3] In other States all farm stock and implements were exempt.

[4] Other States designate special objects.

[5] The sheriff appointed if able to qualify.

harmony of custom respecting taxation within certain restricted sections, there is disclosed the common origin and previous history of certain of the colonies, and there is suggested some intimacy of intercourse between them. For example, the revenue systems of the New England section conform quite well to the same general model. Some of the Southern States, also, present many features in common. As between these sections, however, and indeed as between the States also, the more one studies the details of the systems, the greater differentiation does he observe, a fact which goes to show how isolated and local these sections must have been before they were united by the common bond of complaint. Thus the lists of exemptions varied materially in the several States; the position occupied by the negro before the revenue laws was not the same in all localities; so far as capital employed in business or money loaned at interest was taxed, one can discover no harmony whatever in principles of attachment; discretion granted assessors, also, presents the widest variety of custom. One of the curious points of contrast, and one that brings strongly into contrast the respective characters of the people at this early time, pertains to the custom of perfecting the taxable lists among the Northern and the Southern peoples. In Connecticut, the inhabitants were classed according to the religious societies to which they belonged, the church thus serving as the centre from which the work of the assessor started; in North Carolina and Georgia, on the other hand, it was usual for the captains of the militia to advertise a muster to which the people repaired with lists of their property. Thus, in the one case, the church-rolls, and in the other the rolls of the militia captains, were accepted as the most complete enumeration of taxable inhabitants.

Since, however, this essay pertains to Federal rather than local taxation, we are precluded from following farther the facts presented in this report. Its only importance for our present purpose is to show upon what ground Secretary Wolcott based his decision in favor of a Federal revenue system

independent of local customs. So clearly did he recognize the conflicting character of the local revenue systems, that he conceived it impossible to make use of State-machinery for National taxation, and advocated the establishment of a new and independent system receiving its authority altogether from the central government.

Some of the ideas respecting this system as they lay in his mind, may not be uninteresting. A capitation tax was rejected because it had a tendency to raise wages and thus discourage manufactures; it threw an undue portion of the burden of the public expense on the middle class of farmers; and, so strong was the opposition to it in various parts of the Union, that it was believed the expense of collecting it would be out of proportion to the net revenue arising from it.

A tax on farm produce was opposed because unequal. Taxes on capital were not considered advisable because, if the incidence rested with the capitalist, money would be driven from the country, while if it were possible for the tax to be incorporated with the price of any commodity, it would cease to be direct. Taxes on profits arising from certain employments were considered arbitrary and unequal, although they were favored by the ease with which they might be collected. A tax upon land was regarded from some points of view as good, since it would be uniform, certain, and equal.

In May, 1798, Wolcott submitted another report which contained his plan for a direct tax. It was to be addressed to individuals and to attach the following articles: (*a*) on dwelling houses, to be distributed into nine classes and taxed uniformly in each class; (*b*) on slaves, to be taxed uniformly, 50 cents per caput; (*c*) on lands, to be taxed *ad valorem* in each State at such rate as with the other taxes would produce the sum apportioned. The interesting part of this plan, so far as the method of apportionment is concerned, appears in connection with the house tax. The classes into which Mr. Wolcott divided dwellings and the rates which he proposed were:

| | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| First | class, | of | value | from | $ 80 | to | $ 200, | to bear a tax of | $ | .50 |
| Second | " | " | " | | 200 | to | 600, | " " " | | 1.50 |
| Third | " | " | " | | 600 | to | 1,200, | " " " | | 3.00 |
| Fourth | " | " | " | | 1,200 | to | 2,000, | " " " | | 6.00 |
| Fifth | " | " | " | | 2,000 | to | 4,000, | " " " | | 12.00 |
| Sixth | " | " | " | | 4,000 | to | 6,000, | " " " | | 20.00 |
| Seventh | " | " | " | | 6,000 | to | 10,000, | " " " | | 30.00 |
| Eighth | " | " | " | | 10,000 | to | 25,000, | " " " | | 60.00 |
| Ninth | " | " | " | | 25,000 | and upwards, | | " " " | | 120.00 |

The influence which Hamilton had upon Wolcott is well known, yet this plan of a house tax was not Hamilton's, nor did it meet his approval. The one which he suggested, through Mr. Sedgwick and Mr. Smith, was entirely different, being based upon the principle of rating houses according to the number of rooms they contained. According to his plan

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| A log house | | | | was to bear a tax of | $ | .20. | | |
| A house of | two | rooms | | " | " | " | .25 | per room. |
| " " | three | " | | " | " | " | .33⅓ | " |
| " " | four | " | | " | " | " | .40 | " |
| " " | five | " | | " | " | " | .60 | " |
| " " | six | " | | " | " | " | .75 | " |
| " " | seven | " | and upwards | " | " | " | 1.00 | " |

The law which finally passed in 1798 did not incorporate the ideas of either Hamilton or Wolcott, but conformed to a plan traceable to the advice of Albert Gallatin. This law provided for a progressive percentage tax upon houses classified according to value.

| | | | | |
|---|---|---|---|---|
| Houses valued from | $100 to $1,000 | were taxed upon the dollar at the rate of | | .002 |
| " " | 1,000 to 3,000 | " | " | .004 |
| " " | 3,000 to 6,000 | " | " | .005. |
| " " | 6,000 to 10,000 | " | " | .006 |
| " " | 10,000 to 15,000 | " | " | .007 |
| " " | 15,000 to 20,000 | " | " | .008 |
| " " | 20,000 to 30,000 | " | " | .009 |
| " " | 30,000 and upwards | " | " | .01 |

The rejection of the Wolcott plan must meet with approbation. It was based on no principle of economy and was

neither equal nor just. In its workings it would have contradicted the rule which Congress professed to have accepted as the basis of its impositions. The percentage of taxation on different houses in the same class was not uniform, although the rate of taxation was; and such discrimination as existed lay against the poorer house. This may be easily perceived by comparing the percentage rate of taxation on different classes and the different rates in the same class.

| | Highest rate, viz: on poorest house. | Lowest rate, viz: on best house. |
|---|---|---|
| First class, | .006¼ | .002½ |
| Second class, | .007½ | .002½ |
| Eighth class, | .006 | .002⅜ |
| Ninth class, | .004½ | Rate decreases as value increases. |

Or taking the two extreme cases which the schedule renders possible, a house which is worth $200 would be imposed with a rate of .0075 on valuation, while a house assessed at $599 would be called upon to pay at the rate of only .0026; or, by comparing the highest rate in the second class with the lowest rate in the eighth, it appears that the poorer house pays the rate of .00425 higher than a house worth four times its value.

Hamilton's plan, which is apparently so arbitrary, is based upon the idea that rental may be regarded as the true criterion of what real estate should pay, and he claimed in its support that, by practical application to houses in his own vicinity, the ratio between the rate and rent was sufficiently accurate to meet the demands of justice. It must also be admitted that his method of assessment would obviate expense and uncertainty of valuation. On the other hand it might have a tendency to act in some cases as did the old English window- and hearth-tax, and result in the building of houses inferior to those that otherwise would be erected.

The plan adopted gave rise to a law that was French in its character, based on the principle of "l'impôt progressif," which was then playing, and has since played, so conspicuous a rôle in theories for the reorganization of society. Five

years before, the French Assembly had adopted this mode of taxation, and the American house-tax of 1798 was an application of the same idea, although so drawn as to exhibit the most objectionable features of this method of impost. There was too great a discrepancy between the burdens imposed on different grades of property. Since this law is traceable to Gallatin, and since Gallatin was himself of French extraction and education, it is natural for one to search for some connection between the principle of taxation adopted by the Republicans of France and this law. But there appears to be no evidence of such connection, and a close study of the character of Gallatin does not permit one to regard him as an ardent admirer of all that is French. The collection of this direct tax was placed in the hands of those who already had charge of the execution of the internal revenue laws, the supervisors having full power to appoint additional collectors if they deemed it necessary.

In 1801, upon the accession of Jefferson to the Presidency, it was endeavored to change radically the financial policy of the United States. Of the six causes which the historian Hildreth mentions as resulting in the downfall of the Federal party, two are financial. The first was the six per cent. loan; the second, the direct tax. With regard to the latter, Hamilton said in a speech delivered before the electors of the State of New York, which was intended to influence their votes in favor of the Federal party, that it had ever been the policy of himself and associates to refrain from a resort to direct taxation except in the presence of threatened or actual hostilities, thus showing that the leaders of this party thought it expedient to apologize for having imposed a direct tax.

The new administration lost no time in redeeming its pledge, and, in 1802, all internal and direct taxes were abolished, not to be again re-imposed until the commercial war of 1812 had endangered the revenue which flowed from the customs duties. The Jay treaty expired in 1807, and from that time the war-party gained rapidly in strength. In

his financial reports of 1807 and 1808, Gallatin submitted statements which led Congress to the belief that war might be carried on without a resort to either direct or indirect taxation. The advocates of the war made efficient use of these reports. The financial measures which the Secretary had proposed were not adopted, and in 1812, the public treasury was not in a condition to sustain a war, and it was found necessary, in addition to doubling the customs rates, to establish again a system of internal revenue. These taxes were expressly termed war-taxes, the words being printed in italics, and the purpose of entailing upon the people a permanent and ever progressing system of taxation was explicitly disavowed. It thus appears that the people of the United States had not outgrown their fear of visible taxes, and still preferred to pay the legitimate expenses of the government with blindfolded eyes. Nor can one refrain from the observation in passing, that the financial disasters and absurd treasury-management which the history of this conflict discloses, finds its origin in the law that destroyed the system of internal revenue so laboriously established by the Federalists. The embarrassments occasioned by the absence of any machinery by which wealth currently created could be reached, teaches the lesson that a wise financial policy will provide in time of peace for the exigencies of increased expenditure during time of war. This was the defence presented by Wolcott for the maintenance of his expensive system of internal duties. "In case of foreign war," he said, "the revenue from customs will be greatly decreased, it is wise to provide some means of making up the deficiency." It is, indeed, a question worthy of serious consideration whether any people can afford to be without a system of duties that keeps at least in working order the machinery for levying duties directly upon current products.

So far as the form of indirect duties is concerned, this second period of their use presents very little change from the plan previously adopted; for direct taxes, however, Mr.

Gallatin established a system much more simple than the one incorporated in the law of 1798. The law of 1813 provided for a general assessment upon all taxable property according to its money-value. The apportionment of the tax among the several States was of course controlled by the conditions of the Constitution, but the apportionment of the State-tax to the counties in the State, which was accomplished through a direct act of Congress, was according to the assessed value of property in each county. The position of Mr. Gallatin in reference to direct taxes may be gathered from the following quotation: "Direct taxes are liable to peculiar objection, arising from the unavoidable inequality produced by the general rule of the Constitution. Whatever difference may exist between the relative wealth and consequent ability of paying of the several States, still the tax must necessarily be raised in proportion to their relative population. Should it, however, become necessary to resort to that resource, it is believed that a tax raised upon that species of property in each State which by the State laws is liable to State taxation, as had originally been contemplated by Congress, would be preferable to a general assessment, laid uniformly on the same species of property in all the States, as was ultimatety adopted."[1]

In order also to placate the State authorities, and veil so far as possible the central authority that stood behind this tax, it was further provided that any State legislature might revise the Congressional apportionment of the tax among the counties, if the governmental distribution of burden was conceived to be unjust; and, in addition to this, each State was permitted to pay the apportioned amount directly out of its public treasury, in which case a deduction of fifteen per cent. was allowed. This was bringing into use again the theory of requisitions which had proved so disastrous under the Confederacy, but with this essential difference: there now existed the authority to coerce payment and the means to enforce it.

[1] See Report for 1807.

The machinery for collecting internal revenue was subjected to some slight modification. The States were divided into a number of collection-districts, with a principal assessor and collector for each, "who should be a respectable free-holder and reside in the district." The office of supervisor was abolished and the number of assistant assessors could at any time be reduced by the Secretary of the Treasury. The difference between the Gallatin and the Wolcott plan seems to have been that the former incorporated so far as possible the existing systems of the several States, and was so drawn as to avoid provoking popular hostility by ignoring local sentiment; while the latter introduced a new and uniform method of taxation which, to say the least, was strange in many parts of the Union and opposed in many instances to the habits of the people. Something respecting the financial consequence of these two systems will be presented in the study that follows.

## III.—CRITICISMS UPON REVENUE LEGISLATION.

Having traced the development of the first period of taxation in the United States, and discovered as nearly as possible the conditions of this country at the time when the revenue system took its rise, it lies next in our purpose to consider the practical workings of the system during the period that it was in operation, and to answer such historical queries as may present themselves. It is to this task that our attention is at present turned.

It will be remembered that the chief object of the act of 1789 was to strengthen the public credit,[1] and, consequently, the question that naturally claims first attention concerns the the influence exerted by the law upon the price of public securities. The resources of the country were ample to meet all

[1] Compare foot-note, Benton's Debates, Vol. I., p. 84.

obligations and the knowledge of this fact was widely spread; but, in order to raise the credit of the country, it was also necessary that Congress should express in law its willingness to provide for all debts and to create through law the machinery requisite to render the national resources available. It was necessary, as stated by Mr. Madison, "to revive those principles of honor and honesty that have too long lain dormant;" but, this being done by the rational method of opening a source of permanent revenue, the credit of the country was sure to revive. The facts show that this expectation was not in the least delusive. Before the date at which the law practically went into effect—the 15th of November—public securities had risen thirty-three and one-third per cent. higher than they were at the beginning of the year, and, by January 14, 1790, they had experienced an additional rise of fifty per cent. In the second message to Congress presented by Washington, the country was congratulated on "its rising credit and respectability." It may, however, be interesting to notice that this growth in financial respectability was due to the passing of the law, rather than to the actual revenue accruing on account of the law; for the fact is, that revenue arising from customs did not for a number of years suffice for both the payment of current interest upon the public debt and the contingent expenses of the government. During the first seven years of our National existence, receipts from loans, treasury notes, etc., amounted to some twenty millions of dollars, an insignificant sum as it now appears, but yet equal to two and a half times the average annual receipts of the government for the first eight years of reported returns. It was not until 1799 that the revenue from customs equalled the sum which, in 1789, was demanded by the estimates for public needs. This deficiency of income from customs was, however, the result of policy rather than of poverty. The first important State paper, pertaining to financial affairs, gave expression to the opinion that "to make provision equal to the funding of the whole debt would require the extension of taxation to a degree

and to objects which the true interest of the public creditors forbids."

The other sources of revenue open to the government, apart from external and internal taxation, were the following: sale of public lands, sale of bank stock or dividends upon such shares as were retained, loans and treasury notes, the postage-department, and miscellaneous sources,—including forfeits, fines and the like; yet, from the beginning of the government until 1816, revenue arising from customs duties constituted more than six-elevenths of that arising from all other sources combined.

One cannot insist too strongly upon the political importance of these revenue laws, nor assign too great solicitude to the friends of the new government while the revenue system was under discussion. The early American statesmen recognized clearly the lever that was to set their hardly-wrought State in motion. The establishment of revenue and credit was the practical step which ensured the realization of that for which they so long had toiled, and it was this purpose, and not to establish the manufacture of beer bottles or encourage the growth of hemp, that was continually before their minds. He who does not recognize this is not in mental harmony with the period, and so fails to grasp the true meaning of these first debates. The safety of the Republic at that time was bound up with its ability and willingness to pay its honest debts. Legal provision for this was secured, and government became a reality. It was also through the influence which public honesty exerted upon private confidence that the country was launched upon its first period of commercial and industrial prosperity.

Recognizing, then, the early revenue system as adequate to the political and industrial necessities of the period, the next question that naturally presents itself is concerning the efficiency of revenue administration. The mark of a well-administered system of taxation is economy in collection, for this means not only a well-organized force, but also that the finan-

cial policy of the government harmonizes with the wishes of the public. It will be necessary in this connection to consider three forms of revenue: customs duties, internal duties, and direct taxes.

The expensiveness of customs dues, for the period previous to 1816, may be learned from the following table, which presents both gross and net revenue from customs, the cost of collection, and the percentage-cost estimated upon gross revenue after deducting drawbacks upon goods exported. The discrepancies observed between the gross amount received and the sum of the net amount and cost of collection, is explained by the fact that payments on drawbacks have been omitted from the table:

| | Gross am't revenue from customs. | Nett amount of revenue. | Expense of collection. | Cost per ct. collection. |
|---|---|---|---|---|
| 1791 | $ 6,873,783 | $ 6,534,263 | $240,031 | .035 |
| 1792 | 5,095,919 | 4,614,924 | 161,932 | .034 |
| 1793 | 6,720,985 | 6,073,512 | 188,915 | .03 |
| 1794 | 8,671,195 | 6,683,318 | 222,128 | .032 |
| 1795 | 11,253,733 | 7,959,409 | 260,845 | .031 |
| 1796 | 12,681,866 | 7,368,970 | 292,478 | .039 |
| 1797 | 13,001,105 | 8,258,111 | 345,757 | .041 |
| 1798 | 11,528,091 | 6,193,280 | 376,063 | .057 |
| 1799 | 15,439,569 | 9,037,437 | 412,798 | .043 |
| 1800 | 16,181,425 | 9,353,362 | 444,313 | .045 |
| 1801 | 20,828,240 | 13,362,702 | 482,899 | .035 |
| 1802 | 15,150,428 | 8,327,335 | 492,905 | .056 |
| 1803 | 14,523,652 | 11,322,551 | 406,814 | .034 |
| 1804 | 20,799,635 | 14,977,085 | 495,084 | .032 |
| 1805 | 23,897,664 | 14,980,218 | 558,688 | .036 |
| 1806 | 26,538,987 | 16,081,976 | 614,548 | .036 |
| 1807 | 27,323,227 | 16,493,434 | 646,110 | .037 |
| 1808 | 11,348,694 | 7,181,714 | 568,292 | .072 |
| 1809 | 11,843,576 | 7,139,037 | 503,905 | .066 |
| 1810 | 16,898,539 | 12,757,988 | 447,868 | .034 |
| 1811 | 10,660,666 | 7,872,528 | 443,936 | .053 |
| 1812 | 15,300,910 | 13,040,121 | 481,745 | .035 |
| 1813 | 7,965,568 | 6,533,603 | 417,939 | .06 |
| 1814 | 4,806,022 | 4,381,882 | 359,169 | .075 |
| 1815 | 38,990,036 | 37,656,486 | 510,557 | .013 |
| 1816 | 33,558,960 | 28,572,281 | 820,423 | .028 |

It thus appears that, for the first twenty-five years of our National life, the average cost of collecting customs duties was something less than four per cent. of gross receipts. The table further shows that this cost fluctuated with the state of commerce, and thus was largely independent of the control of Congress or the Treasury Department, a fact which, when well understood, presents a severe criticism upon this method of raising revenue. At present, the average cost of collecting customs duties is about three per cent. During the period corresponding to the one covered by this essay, the cost of collecting the English revenue was about five per cent.,[1] although reaching at times as high as seven; and, in France, under the administration of Neckar, the transfer of taxes from the pockets of citizens to the public chest consumed ten per cent. of the gross payment.[2] There is, however, an element of error in this latter comparison, for customs payments on the one side have been compared with total revenue on the other; still, as such a large proportion of revenue in the United States arose out of import duties, the error here noticed is probably less than would have been introduced by any other method of comparison.

It must be with great caution that we proceed to a similar analysis of internal and direct taxes, for not only is it impossible to draw from the treasury reports such satisfactory statements of the manner in which they worked, but the conditions under which they were imposed and collected exposed them to many extraneous influences. Thus, in the first instance, these taxes were subject to fierce political controversy, while, in the second period, they were levied as war taxes and collected under war conditions. They cannot, therefore, be said to have had a fair chance. With regard to these taxes between 1795 and 1801, we find conflicting authority as to the manner in which they worked, but it is

[1] Parnell on Financial Reform, p. 122.

[2] Oeuvres de Neckar, tome IV., p. 196.

thought best to rely upon the public statements rather than on the claims of those who made political capital out of the method in which the internal revenue system was managed. The figures, as they appear, are condensed into the following table:

| | Total estimated revenue. | Cost of collection. | Monies rec'd in Treasury. | Estimated rate per cent. cost of collection. | Actual rate per cent. cost of collection. |
|---|---|---|---|---|---|
| 1795 | $ 528,481 | $ 84,943 | $ 337,755 | .15 | .25 |
| 1796 | 647,065 | 88,585 | 474,289 | .13 | .19 |
| 1797 | 735,239 | 86,098 | 575,491 | .11 | .15 |
| 1798 | 1,004,828 | 119,890 | 644,737 | .12 | .18 |
| 1799 | 995,000 | 129,912 | 779,136 | .13 | .16 |
| 1800 | 993,661 | 103,785 | 806,396 | .10 | .12 |
| 1801 | 989,533 | ..... | 1,048,033 | .... | .... |
| 1814 | 3,262,197 | 148,991 | 1,910,995 | .... | .078 |
| 1815 | 6,242,503 | 279,277 | 4,976,529 | .... | .056 |
| 1816 | 4,633,799 | 253,440 | 5,281,111 | .... | .048 |

*Notes on the Table.*

Of the entire income from internal revenue, the excise on spirits gave rise to nearly three-fifths net receipts.

For first period, compare American State Papers, vol. VII., pages 386, 557, 592, 616, 681, 718, and vol. VIII., p. 18.

For second period, ditto, vol. IX., p. 230.

The first thought suggested by these figures is, that internal taxes are more expensive than customs duties. It would, however, be unsafe to accept the experience of this period as a generalization of wide application, for the cost of collection, as here disclosed, was altogether abnormal, owing to the political environment in which the collection was undertaken. By the present system of internal duties, revenue is collected at an expense of three and six-tenths per cent.,[1] and whenever the

[1] Report of the Commissioner of Internal Revenue for 1882.

two systems have produced the same amount of gross revenue, the advantage inclines to the system of internal duties.

Another notable feature of the foregoing table is the difference in cost of collecting internal duties for the two periods in which they were employed. It is natural to hold the officers, whose duty it was to administer revenue machinery, responsible for its working during the terms of their respective incumbency; but there are several facts throwing light on this discrepancy, which, in addition to breaking somewhat the force of a criticism so adverse to Mr. Wolcott, brings prominently into view certain important facts respecting taxation.

Thus, in the first place, when the amount collected from any form of taxation increases, while the objects taxed remain the same, the ratio of cost of collection to gross revenue will tend to decrease. For example, the receipts of 1816 were six times as great as in 1800, while the cost of collecting the former was but little over twice that of collecting the latter; yet the subjects taxed and the rates imposed were nearly the same in each case. If it be asked why Wolcott did not augment his tax and thus avail himself of this principle, it may be answered that during the two periods the ratio between assessments and amount of national wealth remained nearly constant. The possibility of increased receipts rested upon the actual increase of national wealth and industry, and thus it appears that, other things being equal, cost of collection bears some relation to the ability of a people to pay.

Another explanation of this discrepancy is found in the fact that, during the first period, these taxes were administered in the face of political and party opposition and by a government which did not have at its back a majority of the citizen-electors; but, when the system was again tried, it was by a party popular in all parts of the Union excepting New England, and under such enthusiasm as had been engendered by the entrance of the Nation into war. The first system also was established as a permanent system, while the internal

duties of 1813 were specifically called war duties, and it was promised that they should be repealed upon the cessation of hostilities. This fact not only presents a strong apology for Mr. Wolcott, but brings again clearly to our view how important an element is public sentiment in the workings of all revenue systems. The defence offered by the Federalists for maintaining such a system has already been spoken of.

An analysis, however, of the principle upon which the two policies of internal duties were based show, as it appears to me, that Gallatin possessed the financial sense in a higher degree than Wolcott. The error of the latter as a financier seems to have been that he failed to recognize the necessity for fitting his system of taxation to the actual conditions about him. His methods were altogether too artificial. Thus, with regard to the tax at present under consideration, his report of 1796, to which reference has already been made, is most complete as showing the various forms of taxation in the several States, but the only conclusion which he drew from all these facts was, that it was impracticable to harmonize a Federal system with State sentiment and State machinery. When, however, Gallatin came to consider the same question, he did not so conclude, and under his direction there was created an establishment which recognized State-conditions both as regards assessments and collection, and the superior economy of the latter experiment is largely due to this fact. Still, it ought to be said, in justice to the Federalists, that they proposed to create a permanent revenue-organization, while, in the minds of the Democrats, the measure was but a temporary expedient; there was, therefore, more reason in the former case for departing from the established order in the various States.

A study of the administration of direct taxes analogous to the foregoing will not be undertaken. The first direct tax had but a year's trial before the law imposing it was repealed; and, of the two million dollars levied, about seven and a quarter thousand only were paid into the treasury in the course of that year, the remainder coming in driblets during

the fourteen years following. The amount actually received previous to 1809, compared with charges of collection as allowed on settlement, shows that the expense of collection amounted to nine per cent. of net receipts.

It will be remembered that during the second period of direct taxation, it was permitted the States to assume and pay directly into the treasury the amounts assigned them, in which case a deduction of fifteen per cent. was made. Seven of the States in 1814, and four in 1815 and 1816 availed themselves of this privilege. In these cases it is perfectly proper to assume the cost of collection to be the allowed deduction, although the rate in other States fell somewhat short of this proportion. From ten to fifteen per cent. may be fairly assumed as the cost of these direct taxes, and whatever may be said for them under more favorable conditions, it must certainly be admitted that, as administered, they were not economical.

It appears, then, from such considerations as have been presented respecting the early forms of taxation, that customs duties were more in harmony with economy of administration than internal duties, whether direct or indirect. It may be that this economy was apparent and not real, but unless the fact be clearly shown, or unless some political reason can be urged for the continuance of an expensive tax, it must fail of defense upon economic grounds. The principle underlying the report of the Committee of Ways and Means, March 2, 1802, which led to the repeal of internal taxes, must be accepted as sound, whether the judgment of the committee be approved or not. This report submitted the opinion that a tax which required one-fifth of the gross amount to bring the remaining four-fifths into the treasury, "can be justified only by an imperious necessity, a necessity which does not at present, and is not hereafter likely to exist."

There is, however, another fact suggested by this comparison between internal and external duties, which finds illustration in the period of revenue history under consideration, and

which points to a conclusion somewhat at variance with what has just been stated. Customs duties, it is claimed, are very good in time of peace, but they cannot be relied upon for an emergency. They are not elastic, they do not quickly respond to temporary demands, nor is the ratio between rate and receipts nearly as constant as with internal duties. As bearing upon this claim, it will be remembered that when the second war with Great Britain was undertaken, all customs duties were double, the receipts, however, were not thereby increased. The normal income from duties was about fourteen millions of dollars, but the actual income for years 1812 to 1816 inclusive, was respectively eight, thirteen, five, seven, and thirty-six millions of dollars. Thus it appears that the doubling of the rate met neither the expectation of Congress in largely increased revenues, nor of the treasury department in keeping the revenue receipts up to the old figures. As it turned out, this seems to have been an ill-advised measure, for it failed to give financial assistance and threw confusion and uncertainty into business affairs. But this is not the full extent of the criticism that may be properly urged against customs duties as the basis of war financiering. The financial policy upon which the war of 1812 was conducted proved an utter failure. It lay in this policy to supply the extraordinary demands of the treasury by employing the credit of the Nation, and to support this credit by throwing the weight of the loans upon the receipts of customs dues. These receipts were neither adequate in amount nor of sufficient certainty to induce confidence, and in consequence public credit quickly and continuously fell, nor did it show any evidence of recovery till liberal laws levying internal taxes had been passed. The fact here disclosed, that customs duties are not adequate to a sudden financial emergency or a long-continued strain, is a truth of general application, and would find corroborating testimony should the history of the financial conduct of the late war be closely scrutinized. An explanation of this is not far to seek. A good revenue system, equal

to all demands that may be made upon it, must be elastic, and a tax upon the processes of production, when laid in harmony with financial principles, is always more elastic than a tax upon exchanges. Commerce is more sensitive to external conditions than ordinary production, the margin between success and failure is narrower, and a tax or a war declared will be more quickly reflected in trade than in domestic industries. It is indeed an unwise policy that would rely upon customs duties alone. At least this is the lesson to be gleaned from the financial history of the second war with England.

The question remaining for consideration is quite different in its character from that which has just been reviewed. It concerns industrial history rather than pure finance. The claim is not unfrequently urged by those who are looking on all sides for arguments in favor of protection as a national policy, that the foundation of our early American commerce was laid in 1789 by the discriminating duties imposed in its favor; and also that the rapid extension of domestic manufactures subsequent to 1807 is traceable to the policy of encouragement embodied in the first revenue laws. The question, therefore, for our study is, how far tariff legislation was influential in effecting the establishment of these two industries, and to what extent their development was due to other causes.

The growth of American shipping, from 1789 to 1807, is without parallel in the history of the commercial world. During the years intervening between these two dates, American tonnage, engaged in foreign trade, increased from 127,329 tons to 848,306 tons; that is to say, the capacity of shipping owned by American citizens devoted to the foreign trade, had increased six and eight-tenths times. No one claims that this growth was proportional to the extension of domestic industry and agriculture. Normal tonnage is sometimes estimated as the amount required by a people to carry half their exported and imported commodities while foreign peoples are permitted the same privilege. This is, perhaps, an arbi-

trary estimate, for the carrying service, like the service rendered in manufacturing and agricultural pursuits, should be subjected to the guidance of the principle of division of national labor, that is, it should be open to the rulings of international competition. Still, for purpose of illustration, this form of calculation may perhaps be accepted, and upon the basis of this test, in order to prove that registered tonnage in the United States in 1807 was normal, it would be necessary to show that every inhabitant produced exportable commodities to the amount of seven-tenths of a ton. This could not have been the case under the industrial conditions of that period. We may, therefore, conclude that the shipping business of the time was properly termed the "carrying trade."

It is a peculiar fact that the observed fluctuations of the American carrying trade, previous to 1807, follow closely upon the important political events in Europe. That is to say, the commerce of this country discloses a peculiar sensitiveness to diplomatic moves on the part of the great belligerents then struggling for mastery on the Continent. There is then presented the possibility of finding in the peculiar condition of the Western world at this time, and in the fact that the United States was the only important neutral power, a full explanation of the surprising extension of American shipping. The principal diplomatic events pertaining to commercial affairs have already been mentioned in connection with the tonnage acts. It will be sufficient, therefore, at this time to draw attention to the control which they seem to have exercised upon trade statistics of this country. For the sake of greater clearness as well as greater conciseness, I have endeavored to present this relation in tabular form, and in such a manner that the entire argument may be shown at once to the eye. Upon the left, arranged in chronological order, may be found a statement of the political and diplomatic events to which reference is made. The first column of figures shows the total exports of the country; the second and third show the exports of domestic and foreign origin respectively. This division of

exports does not appear in the public records previous to 1803; the figures previous to that date are estimates. The fourth column shows the pounds of sugar annually exported, this

| Year. | Political and diplomatic events. |
|---|---|
| 1791 | ..... |
| 1792 | ..... |
| 1793 | Treaty of the Allied Powers..... |
| 1794 | Jay treaty negotiated with England..... |
| 1795 | ..... |
| 1796 | ..... |
| 1797 | French cruisers allowed to capture American vessels for any cause recognized as lawful ground of capture by British treaty..... |
| 1798 | Order in council granting "special indulgence" to American shipping. French treaty declared void by United States and merchantmen allowed to arm..... |
| 1799 | ..... |
| 1800 | ..... |
| 1801 | ..... |
| 1802 | Treaty of Amiens, followed by reënforcement of the Colonial policy by Great Britain..... |
| 1803 | European hostilities renewed, followed by relaxation of Colonial policy. Order in council not to molest trade with French colonies. |
| 1804 | ..... |
| 1805 | ..... |
| 1806 | Berlin decrees issued, American vessels trading in British goods threatened..... |
| 1807 | (*a*) Jay treaty expires. (*b*) Monroe treaty rejected. (*c*) British orders in council issued, requiring license to trade with Europe. (*d*) Interpretation of Berlin decree making it effective against America. (*e*) Milan decree issued, denationalizing ships submitting to British order. (*f*) Congress lays embargo on all American shipping ..... |
| 1808 | British orders repealed as applied to Spain..... |
| 1809 | Embargo repealed by Congress, June 28..... |
| 1810 | ..... |
| 1811 | ..... |
| 1812 | War declared with Great Britain by American Congress, June 18.. |
| 1813 | ..... |
| 1814 | ..... |

commodity being selected because it is of foreign origin, and thus shows distinctly the importance of the neutral position held by this government. By bringing goods under the protection of the neutral flag of the United States, freight and insurance were much reduced. Alexander Baring estimated

the advantages which the American trader could offer to the West India exporter to be twenty-five per cent. over that which could be offered by the traders of any other country.[1]

| Total exports. | Exports of domestic origin. | Exports of foreign origin. | Pounds of sugar exported. | Revenue from customs and tonnage. |
|---|---|---|---|---|
| $ 19,012,000 | ..... | ..... | 74,000 | $ 6,873,783 |
| 20,753,000 | ..... | ..... | 1,176,000 | 5,095,919 |
| 26,109,000 | ..... | ..... | 4,439,000 | 6,720,985 |
| 33,026,000 | ..... | ..... | 20,721,000 | 8,671,195 |
| 47,989,000 | ..... | ..... | 21,377,000 | 11,253,733 |
| 67,064,000 | ..... | ..... | 34,848,000 | 12,681,866 |
| 56,850,000 | ..... | ..... | 38,366,000 | 13,001,105 |
| 61,527,000 | ..... | ..... | 51,703,000 | 11,528,091 |
| 78,665,000 | $35,000,000 | $43,665,000 | 78,821,000 | 15,439,569 |
| 70,971,000 | 35,000,000 | 35,971,000 | 56,432,000 | 16,181,425 |
| 94,115,000 | 40,000,000 | 54,115,000 | 97,565,000 | 20,828,240 |
| 72,483,000 | 40,000,000 | 32,483,000 | 61,061,000 | 15,150,428 |
| 55,800,000 | 42,205,000 | 13,594,000 | 23,223,000 | 14,528,652 |
| 77,699,000 | 41,467,000 | 36,231,000 | 74,964,000 | 20,799,635 |
| 95,566,000 | 42,387,000 | 53,179,000 | 123,031,000 | 23,897,664 |
| 101,536,000 | 41,253,000 | 60,283,000 | 145,839,000 | 26,538,987 |
| 108,343,000 | 48,699,000 | 59,643,000 | 143,136,000 | 27,323,277 |
| 22,430,000 | 9,433,000 | 12,997,000 | 28,974,000 | 11,348,694 |
| 52,203,000 | 31,405,000 | 20,797,000 | 45,248,000 | 11,843,576 |
| 66,757,000 | 42,336,000 | 24,391,000 | 47,038,000 | 16,898,539 |
| 61,316,000 | 45,294,000 | 16,022,000 | 18,381,000 | 10,660,666 |
| 38,527,000 | 30,032,000 | 8,495,000 | 13,927,000 | 13,300,910 |
| 27,855,000 | 25,008,000 | 2,847,000 | 7,347,000 | 7,965,568 |
| 6,927,000 | 6,782,000 | 145,000 | *less than this.* | 4,806,022 |

The fifth column presents the receipts to the public treasury from customs and tonnage.

[1] Inquiries into the Cause and Consequences of the British Orders in Council, p. 37.

In a study of this table, allowance must be made for tardiness with which news was transmitted at that early day. The facts to be observed are the following. In 1791, there began those disturbances which threw all Europe into commotion. On account of the policy adopted by the Allied Powers, a policy reciprocated by the French, the carrying trade of the European States was greatly embarrassed. It was, however, essential to the welfare of the colonies, as well as for the interest of the governments at home, that some means should be provided for the exchange of European and colonial products. In general, we may say this was accomplished by making use of the only important neutral power, the United States. This was the safest method that could be devised, although it necessitated the adoption of a somewhat circuitous route. The first part of the journey, from the colonies to a port of the United States, was by permission or acquiescence of the European Power; the second part, that between this country and Europe, was upon the basis of treaty. In both stages of the voyage, commodities received the protection of a neutral flag. This was the basis of the trade carried on in American bottoms between England and her West India possessions. The Jay treaty, it will be remembered, as first presented, secured direct trade but prohibited traffic with British colonies. This particular article, however, was rejected by the American Congress, which resulted in leaving that trade subject to the control of the King and council. The consequence was, that, so long as it was England's interest to have her goods carried by American ships, commodities the products of those Islands, were carried in the manner described. This power of the council was not exercised to the hindrance of trade until 1801, at the time of the first peace, but upon the renewal of hostilities, trade fell again into the old channels and so continued till the expiration of the Jay treaty in 1807. The figures that the best illustrate this commerce are those found in the column showing the number of pounds of sugar exported.

The events of 1807 put an end to this lucrative trade. The naval condition of England on the one hand and the determination on Napoleon to have no neutrals and to destroy English trade on the other, deprived the United States of her peculiar advantages hitherto enjoyed, while the retaliatory measures of the home-government destroyed whatever opportunity for commerce there was remaining. It is no cause for surprise, therefore, to notice that trade of all kinds fell off in 1808. In view of such facts as these, it seems that one cannot reasonably impute the great increase of American tonnage between 1789 and 1807 to the discrimination made by our laws in favor of home-shipping. These regulations may have placed this country, for the time, on a par with foreign nations, so as to have secured to her a share in her own carrying trade, which she otherwise would not have enjoyed, or they may have permitted her to see, more quickly than she otherwise would have done, the importance of being the only great neutral power in the Western world; but to say that this discriminating policy was the cause of the growth of American commerce during the period we are considering, is to burden a very weak cause with an enormous consequence.

Turning now our attention to the establishment of the textile industries, we shall find the causal factors yet more complicated than was the case in the development of shipping. There are three sets of facts that, in an exhaustive discussion, ought to be taken into consideration: (1) the revolution in methods of manufacture occasioned by the invention of new machinery and its introduction into this country; (2) foreign commercial complications already alluded to, which forced all capital and energy that could be spared from agriculture into shipping, thus precluding its employment in manufactures; and (3) the tariffs imposed for "protection and encouragement" of these industries.

But first let us learn the facts respecting the development of the textile industries. It is believed that no violence will be done the argument if our search extend no farther than the

establishment of the manufacture of cotton goods. There were some few attempts to carry on the cotton industry in this country at quite an early period, but the first successful endeavor that brought into use the newly invented methods, seems to have been in 1790, in Pawtucket, Rhode Island. This was under the management of Samuel Slater, a man well acquainted with English machinery, having been previously an employee in the Arkwright factories. Through him machinery was introduced and instruction in its use given to those who desired it. Still there was no important development in this industry for a number of years. In 1803 there were but four factories in the country. Yet it appears that attention was about this time drawn to the possibilities of this business, for during the next four years there were established eleven additional mills. The development of the cotton industry, however, cannot be said to have begun till 1808, and from that time till 1820 it was very rapid and, on the whole, successful. According to a report of a special committee made in 1816, the development of the industry, as shown by the number of factories and their capacity, was as follows:

| | Number of Factories. | Number of Spindles. |
|---|---|---|
| 1801 | 62 | 31,000 |
| 1811 | 87 | 80,000 |
| 1816 | | 500,000 |

The number of spindles here given for 1816 is an estimate, and probably an exaggerated one; still, the report is as important for our purposes as though it were perfectly accurate, since it not only shows a rapid development during the four years of the war, but indicates also the excessive views of the importance of cotton manufactories at that time, and explains the willingness with which protection was granted to them in the revision of the tariff in 1816.

Without entering further into details, the truth regarding this industry is, that, previously to 1816, the tariff had no

potency in effecting its establishment or maintenance. The energy and capital of this country flowed in the channel of least resistance, or, what amounts to the same thing, followed the greatest inducements. Previously to 1807, the neutral carrying trade absorbed all surplus energy, but this field of activity having been closed by the diplomatic events of that year, and later all trade having been cut off by the declaration of commercial war, the capital and labor, freed from its accustomed employment, undertook a new form of industry. In 1807 there may be discovered, operating as a permanent cause, that which in 1803 gave temporary direction to the investments of capital. It was the destruction of the carrying trade that occasioned the establishment of manufactures in this country; the potency of the tariff was very slight. If further proof of this were desired, it would only be necessary to compare the rate imposed before the United States were cut off from the European market, and the rate conceived as necessary to maintain these industries thus abnormally developed after the return of peace again permitted importations. The former was fifteen per cent.; the latter was twenty-five per cent. upon a minimum price of twenty-five cents per yard.

From the play of forces here presented there are one or two lessons that may be advantageously drawn. The one is, that there is here enforced, by a chapter of industrial history, a doctrine of capital sometimes lost sight of in discussions upon the policy of protection, namely: National industries are limited by national capital. Its converse, also, may profitably be noticed, that, given capital and labor freed from industries already in existence, new enterprises will be undertaken. Of especial pertinence is this to the United States at the present time. In a country that produces raw material and food supply, the growth of commerce and manufactures are proportional only to a very limited extent. Intensity in the one necessitates a languishing condition in the other. From 1793 to 1807, trade was brisk, and this country lived from foreign supply, growing rich all the time because the people possessed

energy and thrift; from 1807 till 1816, trade was supplanted by manufactures, and people depended upon home-supply, growing rich during this period also because they possessed energy and thrift. But, with all the tariff-laws and tonnage-acts that have been passed from that time to this, they could not have undertaken both pursuits during both periods. For the first twenty-five years of our national history, extensive commerce meant languishing manufactures, and extensive manufactures meant languishing trade: both could not exist in their highest vigor. It is as logical for a Protectionist to depreciate trade, as for one who believes in Freedom of Production to insist upon the benefits of the principle of division of labor.

The financial history of the United States points with peculiar emphasis to one fact, and that is the danger of employing a power granted for one purpose for a purpose entirely different. In the discussions upon the first revenue law, Mr. Clymer of Pennsylvania, one of the few men who saw the tendency of the language employed, desired a separation of the bill into two parts; one of which should contemplate revenue alone and be shaped entirely by revenue principles. This suggestion was not, however, favorably accepted; and, as a consequence, there was included in the first finance bill, in addition to provisions for securing a revenue, part of the country's navigation laws and the major part of its formulated foreign policy. Although, as has been shown, the distinctively protective character of revenue acts does not make its appearance till much later, it yet remains true that a precedent for using revenue machinery in a loose manner was then established, and out of this precedent have grown many of the abuses which subsequent history discloses.

Looked at from this point of view, one may hold the first Congress responsible for the dangers that threatened the country in 1831, for the disasters that followed the distribution scheme of 1836, and for the absurd position in which the people of the United States now find themselves,—with an overflowing treasury and yet unable to shut down the flood-

gates of revenue. The financial reform which this day requires is more than a modification in tariff-rates; it consists rather in such a revolution of public sentiment that finance laws will be judged on the basis of financial principles, and revenue-machinery be employed primarily, if not solely, for revenue-purposes. If the disturbing element of protection can in this manner be separated from questions of finance, the injustice and expense of paying a subsidy out of public funds for the support of losing industries will clearly manifest itself. Tariff-reform means tariff for revenue only.

VII

# INSTITUTIONAL BEGINNINGS

IN A

# WESTERN STATE

"Jura dabat populis posito modo praetor aratro, . . .
Pascebatque suas ipse senator oves."—*Ovid.*

JOHNS HOPKINS UNIVERSITY STUDIES
IN
HISTORICAL AND POLITICAL SCIENCE

HERBERT B. ADAMS, Editor

History is past Politics and Politics present History — *Freeman*

SECOND SERIES

VII

# Institutional Beginnings
IN A
# WESTERN STATE

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# INSTITUTIONAL BEGINNINGS

IN A

# WESTERN STATE.

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Of the local institutions and public acts of the early settlers of Iowa no adequate records are to be found. There are many witnesses yet living who can state what they remember, and this is almost the only source of information. The early settlers thought no more of keeping permanent records of their public or social acts than they did of their individual labors. They plowed, sowed, built houses, barns, bridges, school-houses, punished disorderly persons, defended their homes against the Indians, all as the necessity or convenience of the time made desirable. In much of their ordinary work, by coöperation, they helped each other. It would require a wise man often to distinguish between acts which were not public and those which should be called such. The early settlers made no distinction and kept no permanent record of either. Even the claim associations upon whose acts the titles to their homes rested have left almost no records. There were scores of these organizations in the state, and, after extended inquiry, I find records of only one. These are the property of Colonel Trowbridge, of Iowa City, secretary of the Claim Association of Johnson County. He has kept a complete set of records for that county. In preparing the following sketch I have relied upon the personal testimony of living witnesses for much of the information used.

On the 17th of June, 1830, the miners of Dubuque assembled around an old cotton-wood log, stranded on an island, and appointed a committee of five miners to draw up regulations for their government. They reported the following: "We, a committee, having been chosen to draft certain rules and regulations by which we, as miners, will be governed, and, having duly considered the subject, do unanimously agree that we will be governed by the regulations on the east side of the Mississippi river, with the following exceptions, to wit:

"*Article* 1. That each and every man shall hold two hundred yards square of ground, working said ground one day in six.

"*Article* 2. We further agree that there shall be chosen, by a majority of the miners present, a person who shall hold this article and grant letters of arbitration on application having been made, and that said letters of arbitration shall be obligatory on the parties concerned so applying."

These articles were adopted and Dr. Francis Jarret was chosen as the "person who should hold the article and grant letters of arbitration." (Hist. Dubuque Co., p. 341). These are believed to be the first laws for the government of white men adopted on the soil of Iowa. These laws proceeded directly from the persons who were to be governed by them, viz.: Americans from across the river in the state of Illinois. They agreed to be governed by the regulations on the east side of the river with specific exceptions. The exceptions were written down; the "regulations," or the code of Illinois under which they agreed to live, each man carried in his own head.

They were miners; they came to work the lead mines. The land which they proposed to parcel out among themselves in squares of two hundred yards each belonged to the Sac and Fox Indians. For more than two years these miners carried on an unequal contest with the United States troops who were sent to protect the rights of the Indians. They were not

only governed by the "regulations on the east side," but they were compelled to live on the east side the greater part of the time. Yet they clung with desperation to their "claims," and when, by the terms of the Black-Hawk Purchase in 1833, the land came into the hands of the United States government, they were there to make good their "claims." The code drawn up by the cotton-wood log was still in force. Each took his claim as the code provides. As to the provision for arbitration in the settlement of disputes, the local historian remarks that they "generally took the law into their own hands."

In less than a year from June 10, 1833, when the Indian title was extinguished, more than two thousand persons were living in Dubuque. They had no authorized government. Congress had made no provision for settling the territory; the settlers provided for their own needs as best they could.

In May, 1834, occurred a cold-blooded murder. Patrick O'Connor shot George O'Keaf, apparently without provocation. Immediately after the shooting a great crowd assembled. O'Connor was asked why he had shot O'Keaf. He replied: "That is my business." The enraged miners proposed to hang him at once, but the more discreet advised that he be taken to town and the affair be fully investigated. This was done, and the 20th of May was set for the trial. A large crowd gathered. On motion Captain White was appointed to conduct the prosecution. The prisoner selected Captain Bates as his attorney. A jury of twelve men was chosen by the prisoner. They were seated on a log in front of him and he was asked if he had any objections to the jury. He said he had none. Witnesses were examined and brief addresses made by the attorneys. Captain Bates tried to persuade the citizens to send the accused across the river where he could be tried by law. Captain White replied that they had tried that plan before and the courts in Illinois held that they had no jurisdiction. The case went to the jury, and, after a brief conference, the following verdict was returned signed by every juryman in his own hand:

"We, the undersigned residents of the Dubuque Lead Mines, having been chosen by Patrick O'Connor and empanelled as a jury to try the matter wherein Patrick O'Connor is charged with the murder of George O'Keaf, do find the said Patrick O'Connor guilty of murder in the first degree, and ought to be, and is by us sentenced to be hung by the neck until he is dead; which sentence shall take effect on Tuesday, the 20th day of June, 1834, at one o'clock P. M."

During the month intervening before the sentence was to be executed a priest appeared as a friend of the prisoner, and a movement was made to have him released or pardoned. Application for pardon was made to the Governor of Missouri (Iowa had at one time been attached to Missouri). He replied that he had no authority in the case, and referred the petitioners to the President of the United States. President Jackson likewise replied that the laws of the United States had not been extended over the newly purchased territory, and that he had no authority in the case. He suggested that the pardoning power rested with those who had passed the sentence.

The 20th of June came. The town was policed with one hundred and fifty armed citizens. Minute preparations had been made for the hanging. At one o'clock the marshal, standing in a hollow square formed by armed citizens, gave the signal and Patrick O'Connor was executed. A collection was then taken to meet the expenses of trial, imprisonment, and execution.

This is believed to be the first instance of trial for murder within the limits of Iowa, and, if there was any default of justice, it was not on account of the technicalities of the law. Patrick O'Connor was not a victim of mob violence. He was rescued from the mob by lawfully disposed citizens. He had all the advantages of a fair trial which the circumstances of the case would admit.

Dubuque was a mining town. A large part of the early settlers were men without families, or whose families lived

elsewhere. Settlers came into other parts of Iowa before the Indian title was extinguished. At Burlington "claims" were taken as early as 1829, and settlers came in 1832. These were families who came to found homes. The first organization for local government occurred in 1833. From the list of resolutions adopted by these settlers only these two are preserved: (1) "*Resolved*, That any person or persons allowing the Indians to have whiskey on any account whatever shall forfeit all the whiskey he or they shall have on hand, and likewise the confidence and protection of this Association. (2) *Resolved*, That any person harboring or protecting a refugee who, to evade justice, has fled from other sections of the Union, shall be delivered with such refugee on the other side of the River." These may be accepted as typical fragments of many resolutions and by-laws adopted by settlers on the west side of the river during the few years in which they were left without authorized and efficient government.

In November, 1837, a convention was held in Burlington to consider the question of organizing a territorial government. The following is a portion of the memorial to Congress adopted by this convention: "From June, 1833, until June, 1834, a period of one year, there was not even a shadow of government or law in all western Wisconsin. In June, 1834, Congress attached her to the then existing Territory of Michigan, of which Territory she nominally continued a part until 1836, a period of little more than two years. During the whole of this time, the whole country west, sufficient of itself for a respectable State, was included in the two counties of Dubuque and Des Moines. In each of these two counties there were holden, during the said term of two years, two terms of a county court (a court of inferior jurisdiction), as the only source of judicial relief up to the passage of the act of Congress creating the Territory of Wisconsin. That act took effect the third day of July, 1836, and the first judicial relief under that act was at the April term following, 1837, a period of nine months after its passage; subsequent to which time

there has been a court holden in one solitary county in Western Wisconsin only. This, your memorialists are aware, has recently been owing to the unfortunate disposition[1] of the esteemed and meritorious Judge of our district; but they are equally aware of the fact that had Western Wisconsin existed under a separate organization we should have found relief in the services of other members of the Judiciary, who are at present, in consequence of the great extent of our Territory, and the small number of judges, dispersed at too great a distance and too constantly engaged in the discharge of the duties of their own district, to be enabled to afford relief to other portions of the Territory. Thus, with a population of not less than twenty-five thousand now, and of near half that number at the organization of the Territory [of Wisconsin], it will appear that we have existed as a portion of an organized Territory for sixteen months with but one term of court only."

From these memorialists one gets the impression that the dwellers on the west side of the Mississippi were sorely in need of authorized civil government, that twenty-five thousand people were practically destitute of government. Yet, if you ask the average early settler how this was, he will probably tell you that they had a better government then than they have enjoyed since. They had county governments and local voluntary associations. Their laws were just such as they needed, and were promptly and faithfully executed. Here is an apparent conflict of testimony. The men assembled in Burlington were urging upon Congress the need of a new territorial government west of the Mississippi. They stated their case as strongly as they could. They had in mind especially the more general needs of the settlers, and spoke particularly of a demand for higher territorial courts. They were men who expected to have a personal share in framing the proposed territorial government.

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[1] Indisposition; the judge was sick!

On the other hand the average settler, who will with great emphasis tell you that these first years were the golden age of civil government in Iowa, has in mind especially the local neighborhood government which he himself helped to make, and of which he was a part. If it is of any interest to know what twenty-five thousand Americans will do when left to themselves in a new country, these first few years in the history of Iowa ought not to be neglected.

One part of this history may be easily traced—that of Land Claims. With the exception of the miners of Dubuque nearly all the early settlers in Iowa came to secure homes. The land belonged to the United States. No surveys had been made; there was no legal provision for settlement. How shall each settler be made secure in the possession of his home until such time as the government shall give him a title, and how can he prevent the government from selling the land with all of his improvements to some one else?

It has been said that if three Americans meet to talk over an item of business, the first thing they do is to organize. The pioneers in all parts of Iowa organized Land Leagues, Clubs or Claim Associations. These organizations differed in minor details, but in their main features they were the same.[1] (1). There was a provision as to the amount of land in a

[1] John C. Calhoun, in a speech made in the Senate, Jan. 27, 1838, on a Bill to grant Pre-emption Rights to Actual Settlers, said that "If he was rightly informed the Iowa country had already been seized on by a lawless body of armed men, who had parcelled out the whole region, and had entered into written stipulations to stand by and protect each other—and who were actually exercising the right of ownership and sovereignty over it—permitting none to settle without their leave—and exacting more for the license to settle than the Government does for the land itself," (Calhoun's Works, Vol. III., p. 135). The uniform testimony of the early settler contradicts the statement that any were denied the right to settle or that any license to settle was collected or that more than a small fraction of the land had been claimed; and of course they deny that they were a lawless body of armed men. If one can find any thing else in the paragraph quoted, it may be accepted as true.

"claim." In some cases this was four hundred and eighty acres, in others it was one hundred and sixty acres. There was sometimes a provision as to what part should be prairie and what part timber. (2). There was a provision as to the amount of improvement required to hold the claim in cases where the claim was not occupied. (3). There was a provision as to occupancy. Desertion for a specified time or a failure to make the required improvements worked forfeiture. (4). Claims could be sold to any person approved by the organization, and the buyer had all the privileges and obligations of the original claimant. A deed was given and recorded. (5). Provisions were made for settling disputes between claimants. As the government surveys had not been made, each claimant could have his amount of land, but he could not tell where his lines would be. Valuable improvements were made before the surveys; this naturally gave rise to difficulties and disputes. Provisions for settling these were of different sorts. The members of the organization bound themselves to abide by the decisions of courts established by the association; or difficulties were settled in mass meeting; or special arbiters were chosen to settle special cases; or a neighboring organization was invited to assist in settling a difficulty. In one or another of these ways nearly all cases were adjusted in an orderly way. (6). There were provisions for securing the enforcement of all decisions and for protecting their claims against outside parties.

It is not easy to learn exactly how the decisions of these Claim Associations were enforced. All agree that every man was pledged "to do his duty" in case there was "a difficulty." As to just what this "duty" was there is not a uniformity of testimony. Expulsion from the association, tar and feathers, warning to leave the country, and death, are among the penalties mentioned for violating the laws of the associations. Some of the local historians state that executions occurred, or blood was shed in defence of land claims; but I find no

authentic case of that sort.[1] I find however living witnesses who testify that they were present when tar and feathers were administered to an offender. Others testify that they saw a man knocked down and dragged out of the crowd, who offered a bid at the land sale contrary to the orders of the association.[2]

In the eastern part of the state the Claim Associations usually terminated with the public land sale in the locality. Previous to this public sale no land could be bought. At the land sale, according to United States statute, all land should be sold to the highest bidder. According to the decisions of the associations this land could be sold to no one but the recognized claimant, and it should all be sold at the minimum price, one dollar and twenty-five cents per acre. At the time of these land sales this public land was occupied by thriving towns and villages. Some of it was worth more than a hundred dollars an acre. The supreme moment then for the Association was that of the land sale. Each claimant was expected to be ready with his cash, attend the sale and secure his home. It might be expected that under such circumstances the public land sales would be occasions of great excitement, but the uniform testimony is that they were orderly and quiet. If there was excitement it was internal. Every claimant in the locality covered by the public sale was pledged to be present and "do his duty." It was expected

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[1] The nearest approach to an execution by the authority of the Claim Association that I have met with, is the case of a man who violated the claim laws by pre-empting a claim. He tried to flee the country, was caught by the agents of the association, and was so frightened that he stuck a knife into his own body with the intention, it is believed, of committing suicide. He recovered, however, from the wound.

John C. Calhoun, in the speech already noticed, stated that the lives of several intruders had paid the forfeit.

[2] One minister of the gospel explains to me how he saved a man from "trouble," who had taken a widow's claim, by telling him that he would have "trouble" if he did not do justice by the widow.

that there would be no[1] bids for any land on that day which had not been previously claimed. One month after the sale the land not sold was in the open market and could be bought for a dollar and a quarter per acre. For purposes of greater security to the claimants, all the claims were bidden in by one man, their representative. All the business of the day was between the United States official and the representative of the claimants, who attended the sale to prevent others from bidding. It seldom happened that this was attempted. When it did occur it was the "duty" of the nearest man to "Strike! for his altars and his fires!" to "knock the stranger sensible!" before his bid was recognized. So rare was such an event that nearly every public land sale passed off in a quiet, monotonous way.

In some parts of the state further west, the land came into the market without a public sale.[2] Here the Claim Associations encountered greater difficulties. The pioneers could hold their claims without difficulty until their land became valuable; then, if they did not "enter" the land themselves, it was liable to be taken from them by some person from the east. The Associations were effectual guards against their land being entered by persons living in the country. In such cases the purchaser of an improved claim was often forced to make a deed to the claimant.

If there had been a statute of the United States to the effect that all persons so disposed were privileged to go into

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[1] In cases where the claimants felt secure they allowed outside parties to bid for the land not claimed.

[2] In 1841 Congress passed a general Pre-emption Law giving to the settler the right to purchase at the minimum price ($1.25 per acre), one hundred and sixty acres of land on which he had lived a year and had erected a log cabin. After this date claim associations were formed and continued in Iowa for the purpose of *supplementing* the law. According to the law, timber land might all be taken by those who first arrived. The association divided up the timber-lands into small lots so that each settler should have a portion. Again, the law allowed only one year to the settler in which to purchase his land. The association was much more liberal with him than that.

the territory west of the Mississippi, and there select for themselves lands from the public domain; each neighborhood of actual settlers having full power to adopt rules and regulations for their own government and enforce them as best they could until such time as the United States should provide for them a government; and all claims, contracts, and proceedings of these local governments or contracts made in pursuance of the acts of these local governments should be deemed valid by the United States government whenever said government should be established;—if there had been such a statute of the United States, then the early settlers in Iowa would have been acting in accordance with the letter and the spirit of the law. But there was no such statute.[1] On the contrary, there was an unrepealed statute passed in 1807, forbidding settlements on lands ceded to the United States until authorized by law. There was no law authorizing settlements in Iowa. According to the letter of the law the settlers in Iowa were subject to removal, fine, and imprisonment. This is one of the many cases in our history where "the broad and beaten path of custom leading directly across it (the statute) had obliterated every apparent vestige of its existence."

One of the first acts of the territorial legislature was to legalize the sale of "lands owned by the government of the United States."[2] How could a settler sell lands owned by the United States? He had gone upon the land in violation of a statute of the United States; he had joined a "Claim

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[1] This applies to the period previous to 1841, when the Pre-emption Law was passed.

[2] "All contracts, promises, assumptions or undertakings, either written or verbal, which shall hereafter be made in good faith and without fraud, collusion or circumvention for the sale, purchase or payment of improvements made on the lands owned by the government of the United States shall be deemed valid in law or equity, and may be sued for and recovered as in other contracts." Law of Wisconsin, 1836, p. 23, quoted in Hill *vs.* Smith, Morris, p. 72.

Association" not recognized by law. This Claim Association had made various rules and regulations for appropriating public lands and apportioning them among its members. The only evidence of ownership of those lands was the fact of occupation and the records of the Association. The territorial legislature recognized these acts as legal; the statutes of the United States expressly forbade these acts. There was here a direct conflict between the territorial and the United States statutes. A case involving the validity of the territorial statute was brought before the Supreme Court of Iowa, in July, 1840. Judge Mason gave the decision. The case was Hill *vs.* Smith. Smith had sold Hill a "claim" and taken a note for $1000, dated January 23, 1837. Smith had sued Hill in the lower court and had obtained judgment. The case was carried to the Supreme Court on a writ of error, assigning as errors: (1) "That the note was given for a contract for the purchase of a claim to a tract of the United States lands with the improvements thereon in violation of the provisions of the several acts of Congress upon that subject; (2) That the whole contract for which said writing obligatory was given is contrary to the laws of the United States, and is therefore void."

Judge Mason, of Supreme Court, of Iowa, in giving his decision in the case of Hill *vs.* Smith—(Morris' Reports, p. 70)—spoke as follows: "But the act of Congress of 1807, seems to have been intended merely to prevent the acquirement of title by occupancy, and to authorize the removal of intruders in those cases where public policy should require; but never to disturb the peaceable and industrious, whose labor was adding so much to the public wealth, changing the barren wilderness into fertile fields.[1] . . . But even if the

[1] The action of Congress on the subject of settling territory furnishes a curious and interesting study. The statute of 1807, subjecting trespassers upon the territory of the United States to removal, fine, and imprisonment was by no means a forgotten statute so far as Congress was concerned. It

act was originally intended to prevent all settlements on the public land, and if, under such circumstances, territorial legislation would have been wholly incompetent to render notes &c., collectable which had been given in furtherance of objects illegal under the statute, there is still another matter of serious importance to be considered. Is that law for these purposes still in operation? The act in question was passed 1807, and it is a matter of public history that since that period it has never been exercised to prevent the ordinary settlement of the public lands. . . . Nay, so far from discountenancing such settlements, special encouragements thereto have been offered. In numerous instances rewards have been conferred by acts of Congress, on those who have taken possession of, cultivated and trafficked in the public domain.[1] . . .

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was before Congress many times. It was discussed with much spirit. Laws were passed excepting certain districts from the action of the law. Yet the majority in Congress, notwithstanding the fact that the law was never literally enforced, held that it was a good law, and resisted its abrogation.

[1] The law seems to have been kept on the statute-book by Congress out of deference to a sentiment in the older states that people ought to stay at home and not go gadding about through the wilderness in search of new homes. Generally, when a particular case was brought before Congress where trespassers upon the territory had made for themselves homes, Congress could be persuaded to exempt them from the operation of the law. Congress favored the law but was against its execution.

But, by an unusual spasm of virtue, the Senate, January 16, 1824, by a vote of eleven to thirty-two, decided that Colonel Alexander White should have no exemption from the operation of the law.

This was done after elaborate discussion. The claims common in such cases were set forth on behalf of Col. White, that he had gone upon some land in Louisiana in ignorance of the law of Congress, that he had improved the land and made "the desert to blossom as the rose." In addition to these ordinary claims, there was set up the claim that Col. White had been a brave soldier. General Jackson himself was a member of the Senate and made a vigorous speech on behalf of Col. White, setting forth his eminent services at the battle of New Orleans. According to the vote of the Senate the law should be executed regardless of the character of the individual, that is, Col. White ought to be removed from the territory, fined and imprisoned. But to persons really acquainted with the local conditions this vote subjected Col. White to the inconvenience of forming a "Claim Asso-

"But further than this, governments have been organized by acts of Congress for the express benefit of a community of criminals (agreeably to the notions of the counsel for the plaintiff in error), the effect and evident intention of which was to encourage and facilitate their *illicit* conduct and purposes. It is notorious that when this territory was organized not one foot of its soil had ever been sold by the United States, and but a small portion of it (the half-breed tract) was individual property. Were we a community of trespassers, or were we to be regarded rather as occupying and improving the lands of the government by the invitation and for the benefit of the owner? Were we organized as a colony of malefactors, or shall we not rather absolve the federal government from the charge of such stupendous folly and wanton wickedness?

"Let us suppose that the next week after our territorial organization, the President had directed the marshal to remove with the least possible delay the whole of our twenty-five thousand people. Ought such a command to have been obeyed? We do not ask what would have been the determination of our settlers, but what would the strictest duty have demanded of them? We have no hesitation in saying that such a command would have been altogether illegal and ought not to have been obeyed.

"To make this appear still more evident, let us further suppose that the requisite notice to quit, having been given and disobeyed, the offenders were brought before the proper courts for trial. To say nothing of the utter impracticability of executing such a law, would the courts be justified in giving it efficacy? If so, the great masses of our citizens must be liable to be fined $1.00 each, and might, in addition be hurried off to prison for the period of six months. And for

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ciation," and surrounding the land office on the day of the public sale with stalwart men who would prevent others from bidding upon the land which he had improved.

what? For violating a law of which the great majority knew not the existence,—a law which had lain unexecuted for such a purpose during more than thirty years, and ever since its enactment. Would this be in accordance with the intention of the legislature? If so, the law was intended as a snare. Allurements of the most enticing kind were freely employed to decoy the unsuspecting and the innocent within its reach. Its position and character were concealed by the dust and rubbish of a third of a century; the broad and beaten path of custom leading directly across it had obliterated every apparent vestige of its existence.[1] Suddenly, and when thousands are within its reach, the net is sprung and they are enfolded in its treacherous toils. Whole communities of unoffending citizens find themselves liable to heavy amercements and long incarceration for doing acts which they had every reason to believe were patriotic and praiseworthy; for leading the way in the introduction of wealth, and civilization, and happiness into the almost illimitable west; for sacrificing the comforts and endearments of home, and enduring the hardships and privations, and encountering the diseases of a new and untried country; for building up great communities in the wilderness, enlarging the bounds of empire and vastly augmenting the current of our national revenue. For doing these acts which have redounded so much to the national advantage, done, too, in accordance with the almost express invitation of the national legislature, and when encouragements to western immigration had become a part of our settled national policy, these individuals, where they had every reason to expect rewards—nay, while on the one hand they are actually receiving such rewards, feel themselves on the other condemned to severe and even ignominious punishment. Does the spirit of our institutions justify

[1] See speech made in the Senate of the United States, by Smith, of Indiana, January 14, 1841, who says, "I consider the pre-emption law merely declaratory of the custom or common law of the settlers."

such stupendous deception and wholesale tyranny? We answer emphatically, NO!"[1]

Then follows an allusion to Empson and Dudley, 'supple instruments of the tyranny of Henry VII.,' who were executed and exposed to infamy because, as Judge Mason would have us believe, they executed too rigidly obsolete and forgotten laws (Hume's Hist. Eng., Vol. III., p. 80). Judge Mason proceeds:

"Fortified by this authority we pronounce it contrary to the spirit of that Anglo-Saxon liberty, which we inherit, to revive without notice, an obsolete statute, one in relation to which long disuse and a contrary policy had induced a reasonable belief that it was no longer in force. If custom can make laws, it can when long acquiesced in, recognized and countenanced by the sovereign power, also repeal them. Such has been the case in the example now before us. We feel, therefore, justified in declaring that the act of March 3, 1807, so far as it would have gone to authorize the removal of the inhabitants of this territory, or their punishment as criminals, is wholly inoperative and void; that it has been repealed by long *non user;* by the establishment of an opposite policy, and by the legislative recognition of wide-spread and long-established customs among the people of the west, which are wholly incompatible with such an operation of this statute. If this measure can be sanctioned, then there is

[1] This whole subject was fully discussed in the Senate of the United States, January, 1838. This was before the land-sales in Iowa, and the condition of Iowa was the exciting cause. Henry Clay, on that occasion advocated strict enforcement of the law requiring all lands to be offered at public auction and sold to the highest bidder. Webster, on the other hand, advocated the passage of a pre-emption law for the benefit of actual settlers. The settlers' claims are clearly stated and ably argued in a speech published in Webster's Works, Vol. V., p. 391. There is a tradition among early settlers of Iowa, that Webster made a speech against them in early times, that he changed his mind and became their great champion after a visit to the west. A part of this tradition is confirmed in Curtis' Life of Webster, Vol. I., p. 574.

nothing to prevent Congress from laying these snares by premeditation."

Judge Mason in rendering his decision speaks like an advocate; some passages remind one of the spirit of Seventy-Six. His decision may be flimsy law, but it is first-class history. It almost takes away the breath of a lawyer to declare that a custom of thirty years' standing can repeal a statute, yet it is a simple fact that the first homestead laws of Iowa were made by little bands of men in the different localities, who had gone upon the lands in violation of a United States statute. These homestead laws were, in the opinion of their makers, better suited for the purposes intended than any laws that Congress had made or could make. They were suited to the special needs of each locality. If the woodlands of the locality were scanty they were parceled out in small quantities so that each should have his portion. If there were special mill privileges these were enjoyed in common. The execution of these laws was effective, thorough, cheap and, for the most part, just. The laws, executions and decisions of the Claim Associations, the original homestead laws of Iowa, came to be recognized as law by all the powers that be.

As already stated, there was not much local government in Iowa except such as the people in the different localities formed for themselves until Iowa was organized under a separate territorial government in 1838. Yet in the acts of the territory of Michigan may be found a record of the establishment of two counties west of the Mississippi River as early as 1834, and each county was made a township. Likewise in the records of the territory of Wisconsin may be found the names of sixteen counties established in Iowa, with provisions for a highly organized township system, but in the actual history of the local institutions of Iowa there is almost nothing to show for these elaborate provisions for townships.

Nor does the discrepancy between statutes and local institutions disappear with the establishment of a separate territo-

rial government for Iowa. In the provisions of the Claim Associations and other local voluntary associations which the early settlers made for themselves, there is little discrepancy between the laws and the actual history. In the local voluntary associations no general provisions were made. Nothing was done which was not demanded by the majority; no measure adopted which was not thoroughly understood by all. But when thirteen men in one house and twenty-six men in another put their heads together for the purpose of setting up local and specific institutions for a numerous, widely scattered and rapidly increasing constituency, drawn together from all parts of the world, accustomed to different sorts of local institutions, there was a difficulty.

The first stroke of legislative proceeding from the territorial Assembly of Iowa was a statute continuing, for the time being, the laws of the territory of Wisconsin. To a well-instructed student of law this meant that there should be in each of the sixteen counties of Iowa a highly-organized and complicated system of township government; but, to the average farmer who lived in these counties, to continue under the laws of Wisconsin meant to continue to take care of themselves under local regulations of their own making. And the farmers of Iowa went right on living under the "laws of Wisconsin" as they understood them.

The early territorial statutes of Iowa are interesting as a study in psychology. From them we may learn how thirty-nine men under given conditions have acted and what they have done.[1] All the certain history we have from these

[1] Professor T. S. Parven, of Iowa City, who was clerk of the Senate in the first Territorial Legislature, gives an interesting account of the inner workings of the Assembly. The members were untrained and inexperienced. They had recently come to the Territory. They knew little about the needs of the people. They had collected copies of the statutes of nearly all the states in the Union. They went wandering about among these statutes copying whatever happened to strike their fancy. There were members from nearly every state in the Union and each felt called upon to get as

official records is the bare fact that a majority of the legislators for some cause voted for certain statutes. It might be supposed that, as these legislators were chosen by the people for the express purpose of making laws for their government, there would be a correspondence between the statutes and the actual experiences of the people, so that, having the laws, you would have also the local institutions of the people. This is far from the truth; there is no reason to believe that the great body of the people ever knew anything about the complicated paper institutions which their representatives made for them. As an instance of discrepancy between statutes and history the early school-laws may be given. If you ask an early settler in Iowa when the state introduced public schools, he will tell you that the public-school system did not become thoroughly established till about 1854 or 1855. But were there not schools earlier than that? Yes, but they were private schools; or, they were partly private and partly public. In each neighborhood, as soon as there were enough children of school-age, a meeting of the citizens was called, a place and plan for a school-house determined upon, a day set for building, and at the appointed time they all came out and built. Then they hired a teacher and kept up the school as best they could. From the earliest territorial statutes one

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large a part of the statutes of his own state enacted into the laws of the new territory as possible.

One member introduced a bill on the subject of *Jeofails*. It was read to the house and voted upon by the members under the impression that it was a private bill for the benefit of "Joe Fails," a man whom they all knew. Some of the members became impressed with the idea that the laws they were making had no earthly relations to the needs of the people so they called upon the Judges who had had experience in the courts of the territory to prepare some laws suited to the actual needs of the people. The Judges complied with this reasonable request. Some needed laws were thus enacted; but, as these facts became known to the men of independent judgment, the theorists of the legislature, in other words, the "Joe Fails" party, they rebelled against this implied impeachment of their ability and refused to ratify the Judge-made laws.

would infer that schools were established in Iowa free to all white persons between the ages of four and twenty-one. Counties were organized into districts on petition of a majority in the proposed district.[1] School districts were elaborately officered with seven officials for each district, and there were minute provisions for the management of schools. According to the statutes of Iowa the territory, and afterwards the state, was abundantly and thoroughly supplied with the privileges of free public schools for all white children. The statutes are abundant and, as they are closely examined, one is convinced that they are not merely formal acts which had made their way into the records and been forgotten; they are real living laws, prepared with great care and revised and made more elaborate at each session of the legislature. Yet, if you turn from these records and study the actual school system of the territory and the state, you find that the free school was a plant of slow growth; that for years there were no free schools; and the great body of our citizens are to-day under the impression that our public-school system dates back only to about 1854.

Professor T. S. Parvin, who was the first man appointed to the Superintendency of Public Instruction in Iowa, states that those early law-makers knew quite well, at the time they framed their laws, that there were no public schools and could not be in the greater part of the state; but they expected to have the schools sometime, and they believed that the passing of good school-laws would have the effect of encouraging immigration. These statutes expressed a longing of the people for a time when there would be seven persons living near enough together on these prairies fitted to

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[1] Schools shall be established in counties free to all white persons between the ages of four and twenty-one.

Officers of school district are: 3 Trustees, 1 Clerk, 1 Treasurer, 1 Assessor, 1 Collector. Duties of each officer are fully given. [Territorial statute, passed Jan., 1839.]

hold school offices and manage a public school in their various neighborhoods. In the meantime such statutes could be made immediately available for purposes of advertisement in the east and thus assist in bringing about the state of society desired.[1]

If there are persons who regard the bare statutes of a new country as a reliable guide to the history of the growth of its local institutions, a careful comparison of the statutes of Iowa with the local institutions of the state will disabuse them of such a notion. The real local institutions of the early settlers of Iowa are not recorded in any statute-books, and many of the institutions recorded in statute-books never had any existence.

The people of Iowa needed homestead laws; they organized claim associations and made for themselves homestead-laws in each neighborhood. They needed schools; they paid no attention to the elaborate system put into their statutes, they built for themselves school-houses and established schools better suited to their needs. They needed cart-roads, and made them for themselves, constructed their rude bridges or provided ferries without regard to any general statute. Sometimes, though not often, a crime was committed and the little community administered such punishment as seemed fit.[2]

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[1] Prof. Parvin writes for me the following: "When Governor Lucas, the first governor of Iowa Territory, had completed his first Message—a message, by the way, the importance of which has never been fully appreciated—he read it to me, then his private secretary, before my copying it for the legislature. When he came to the part relating to Public Schools he paused, and, knowing my interest in the subject (from my having been for a short time assistant editor of a School Journal in Ohio) he remarked, that while the subject might appear to be in advance of the times in our history, having but few children to educate and no funds to support a school system, it was still necessary to inaugurate a system, and upon a proper (the township) basis, and *especially so to inform our eastern friends* that we meant to start out right and build up a good system as fast as the population and wealth of the territory would warrant."

[2] One of the early settlers of Powshilk county looked with covetous eye upon his neighbor's "claim." He wrote to the father of his neighbor's

It is not true that all the local institutions of the state were as tardy in following the lead of the statutes as were the public schools; yet it was a long time before the statutes came to be carefully observed in all local affairs. In the early history of the territory there was provision in the statutes for a highly organized township government after the manner of Michigan, but after extended inquiry I find little evidence that such an institution ever existed in the state. The statutes which provided for the higher courts, the state institutions and the general interests of the state were observed, and, in the case of these, if you have the statute, you have generally the institution. Likewise the counties, as the more immediate agencies of the state, followed closely, in their actual organization and management,

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wife, who lived in Illinois, and told him that his daughter was suffering for lack of food, and advised him take her away, hoping thus to get the "claim" for himself. To this lying document he subscribed the names of the settlers in the vicinity. A man from Illinois soon appeared with the letter and the forged names in his possession. Investigation was made and they found that the woman who was reported in a starving condition had at that time the greater part of an ox in her cabin with meat all in good condition and was literally living on the fat of the land. The liar was arraigned before his enraged neighbors under the charge of slander. If he had not a fair trial he had at least a *long* trial. They devoted three days to the case. At the end of the trial a committee chosen for the purpose reported resolutions to the effect that the defendent was guilty of lying and slander, that he was unworthy of the respect and confidence of honest men, that all the citizens before whom he had been tried bound themselves to have no dealings with him. They would not buy of him nor sell to him. They would not enter his house nor receive him into their houses. They would not protect him from the storm nor warn him of the approach of danger. The resolutions as first reported by the committee contained the words "neither him nor his family." There were three daughters in the family and some of the young men objected to including the family in the "Boycotting" resolutions. The words were stricken out and the resolutions received the unanimous assent of the meeting. I asked Mr. Satchel, to whom I am indebted for this account, how long he felt bound by those resolutions. He replied with great earnestness, "I feel bound by them yet," and the trial was nearly forty years ago.

the statutes providing for them. It is only in the more remote local agencies of the state that the greatest discrepancies exist between the statutes and the institutions. In the town of Grinnell for ten years after its organization the trustees of the township in which the town is located attended to the business of equalizing assessments of town property. Now according to the statute providing for the government of the town, the duty of equalizing assessments is placed in the hands of the town council. The trustees of the township lawfully attended to that business before the town government was organized, but after the organization of the town government they had no legal power over assessments within the corporate limits; yet they went right on doing that work for ten years. Another case, this, where "the broad and beaten path of custom leading directly across the statute had obliterated every apparent vestige of its existence!" This "obliteration" occurred simply because no one concerned in the execution of the law ever took any notice of the statute. A habit of doing a thing in a certain way is likely always to go right on and "obliterate" changes prescribed by a remote body unless there is some strong and vigilant power to follow up the statute and see that the changes are made. It may be right for the state to presume that every one understands the statutes when they are once duly published, but experience does not warrant such a presumption. Printed statutes seem to act upon the mind of the multitude much as does a riddle or a conundrum—intellectual operations are paralyzed; and even when the statutes are laboriously read, they remain dead and unknown laws until explained by experts or until they are embodied or symbolized by external acts or institutions.

The work of local government in Iowa has been variously distributed between town, township, county and school district. Under the laws of the territory of Wisconsin, in 1837, the management of the county business was placed in the hands of three commissioners whose duties were both administrative and judicial. The commissioner-system was con-

tinued in the territory and afterward in the state till 1851, when it was displaced by a county-judge system in which nearly all the county business was transacted by one county judge. In 1861 a district court was empowered to conduct the *judicial* business of the county while *administrative* affairs were assigned to a board of supervisors chosen—one from each civil township. This plan was continued for ten years, when the county business was placed again in the hands of three supervisors elected by the county at large. We have thus completed the circle and returned to the three commissioners minus their judicial functions.

The forms of township government have fluctuated less. Whenever and wherever there has been a township government the characteristic officers have been three trustees and a clerk. In early territorial times the counties were not all divided into townships. The commissioners were authorized thus to divide the county whenever they believed a majority of the electors desired it.[1] Afterwards the law compelled them so to divide the county upon receipt of a petition signed by a majority of the voters. Until 1851 civil townships were by law "bodies corporate and politic." Since that time they have not possessed that quality.

Counties have been the chief agencies in collecting taxes; yet in early times the statutes provided both for the levying and collecting of taxes by civil townships, for local purposes. At the present time local taxes for the repair of roads are voted by the trustees of the township, for the support of schools, by the board of directors of school districts or by the electors of the school district; for incorporated towns and cities, by town or city council or by the electors of the same; for the support of county institutions, by the board of supervisors or the electors of the county; for the support of state institutions, by the General Assembly of the state. These taxes are all voted under limitations imposed by the constitu-

[1] Territorial statutes, 1842.

tion or the statutes of the state, and the amount of the tax voted in each case is given to the county auditor who is clerk of the board of supervisors for the county. The auditor has also placed in his hands the assessment lists. It is the duty of the board of supervisors of the county, to levy upon the county a sufficient sum to meet all the demands for local and state purposes. A county officer collects this tax. For county and state purposes the tax is collected equally from the entire county; for local purposes within the county, the taxes are collected from the different localities as voted by the local board. Assessment or listing of property for purposes of taxation was in early times done by a county officer. It is now in the hands of townships and incorporated towns and cities.

The care of the poor has oscillated between county and township and has become fixed mainly in the hands of the county, yet it is still the duty of the trustees of townships acting as agents of the county to render temporary aid in cases demanding it, and to send the permanently disabled to the county house. All bills are paid by the county.

The holding of general elections was in early times controlled by county officers who created voting precincts within the county. Now, each civil township is made a voting precinct, and township officers have entire charge of general elections. Town and city councils hold municipal elections, and school officers hold elections for choosing school directors.

In early times the care of roads vibrated between county and township; it is now divided between them. The county locates and owns the roads and builds important bridges.[1] The building of smaller bridges and the ordinary grading and repair of roads and bridges is in the hands of the townships. For this purpose the trustees are empowered to divide the township into districts, and, at the general election, the electors

[1] The supervisors of the county decide upon the class of bridges built by the county and the class built by township.

of each road-district select a road-master or supervisor. It is the duty of the road-supervisor to collect a local road-tax and apply it upon the roads. This tax is paid chiefly in labor upon the roads under the direction of the supervisors; a portion, however, is collected in money which is used in building small bridges.

Many of these general statements have been made simply from examination of the laws, they have not all been fully tested by examination of the actual institutions as they existed under the laws.

The early laws of the territory and the state bear testimony to the mixed character of the population. Evidently at times in the legislature there was a disposition to exalt the civil township as a body politic, give it large powers, and invest it with true democratic qualities. But it would seem that the mere fact of abundant room and a disposition to spread out and occupy as much of the land as possible was almost fatal to all democratic tendency in local government. With a sparse population the representative county government seemed much cheaper and more natural. Certain it is that the county gained a decided ascendancy over the township in local affairs, and all local government, whether of county, township, town or city, or school-district, is representative rather than democratic. Our code still gives to the electors of all these local governments some powers over taxation and other matters; but most of these powers are not exercised except in cases of necessity. It is the habit of the people to leave all affairs of local government to the local boards. The moving of a county seat or the voting of a local tax for a railroad are about the only questions that can always be relied upon to bring out a full expression from the electors; but voting taxes and authorizing a local board to issue bonds, the settling of details about the management of schools, though placed by the code in the hands of a general meeting of the electors of the district township are, in fact, generally left to the local board. A school board cannot build a house without being authorized by a vote of the electors of the district at a general

meeting whereof due notice has been given. This general meeting is usually attended by a portion of the school board and such other persons as they can call in at the time. Thus more important business which the law evidently intends shall be attended to by a larger number of those especially interested is often transacted by a *part* of the school board met and organized under the name and style of a "meeting of the electors of the school district." I have myself been waylaid by a school officer and dragged into a room where I found a half-dozen other victims.

"Gentlemen," said the Secretary of the School Board, "this is the annual meeting of the electors of this district, and there is some business which *must* be attended to at this time."

*Detained Elector:* "I have no time to remain; this is *your business;* will you please make your motions without any speeches or explanations and we will vote just as you wish us to."

Two or three motions were made and voted upon in quick succession and the meeting adjourned in less than five minutes. Out of six hundred electors, six were present and those chiefly against their will. This apathy does not arise from lack of interest in local affairs but from the impression that the business really belongs to the local board. The great body of the electors live in entire ignorance of these powers and duties. They are representative in their thoughts and habits, and they depend upon the boards for the right management of all local affairs. The local boards usually accept these trusts according to the intentions of the electors and really do the work committed to the electors as well as that committed to themselves.

If a proposition should be made to change the code and make the local government entirely representative in form as it seems to be in fact, it would doubtless be objected that there have been special occasions when this power of electors over local affairs has served as a wholesome check upon the local boards, and those times may recur; the law, as it is, does no harm; circumstances may arise where it may do good.

VIII - IX

# INDIAN MONEY

AS A FACTOR IN

# New England Civilization

"Gold all is not that doth golden seem."—*Spenser.*

Wampum—"Coyne, monedsh, from the English money."—*Roger Williams.*

The issue was civil government or savagery, and the Puritans won it.

JOHNS HOPKINS UNIVERSITY STUDIES
IN
HISTORICAL AND POLITICAL SCIENCE

HERBERT B. ADAMS, Editor

History is past Politics and Politics present History — *Freeman*

SECOND SERIES

VIII - IX

# INDIAN MONEY

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# New England Civilization

BY WILLIAM B. WEEDEN, A. M.

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# INDIAN MONEY

AS A FACTOR IN

# NEW ENGLAND CIVILIZATION.[1]

COMMERCE abides by great waters, and the sea shore has been its natural home from very early times. New England owed much to the sea, and especially to the fish which her skilful hand drew from its deep waters; but there was a marine treasure, of the shore and already at hand, which has not received the attention due to it, in considering the development of our early history.

All new communities suffer for a currency. Capital must be scarce, but a circulating medium is yet rarer. The increasing wants of a new life constantly send off the valuable medium and tend to deprive enterprise and industry of the needed stimulus of money. This marine treasure was in the Indian money—"coyne, Monèash, from the English money," as Roger Williams[2] quaintly terms it. These beads made from sea shells strung, or embroidered, on belts and garments, were the coveted treasures of Indian life. Tradition gives to the Narragansetts the honor of inventing these valued articles, valuable both for use and exchange. This tribe was one of the most powerful, and it is asserted that their commercial use of wampum gave them their best opportunities of wealth. The Long Island Indians[3] manufactured the beads in large

[1] This paper was presented to the Historical and Political Science Association of the J. H. U. November 9, 1883, and is an important chapter in the Economic History of New England, to which Mr. Weeden is now devoting special attention.—ED.

[2] R. I. Hist. Coll. I., 1827, Key, p. 128.

[3] In this and other details I have freely used Dr. Woodward's interesting essay on Wampum, Albany, 1878.

quantities and then were forced to pay them away in tribute to the Mohawks and the fiercer tribes of the interior. Furs were readily exchanged for these trinkets, which carried a permanent value, through the constancy of the Indian desire for them. The holder of wampum always compelled trade to come to him.

### Wampum a Legal Tender.

After the use of wampum was established in colonial life, contracts were made payable at will in wampum,[1] beaver, or silver. It is not the presence and free interchange of this shell currency, significant as it is, which chiefly interests us. This curious article, half natural, half artificial, getting its value from labor on the one hand and the desires fomented by the rude civilization of the barbarians on the other, played back and forth between the greedy Indian and the poor colonist for a long period. The use began in New England in 1627. It was a legal tender until 1661, and for more than three quarters of a century the wampum was current in small transactions. For more than a century, indeed, this currency entered into the intercourse of Indian and colonist, and therefore affected the whole development of that industry and commerce which we are studying. We must remember that, though Indian barbarities were cruel and destructive, they generally occurred on the frontiers. If we except the Pequot and Narragansett wars, the daily life of the settled portions of the colonies and provinces of New England was very little disturbed by Indian difficulties during long periods. In every day life, English and natives managed to live peacefully. The Indian was often brought into the colonial courts for minor offences, was fined, and generally paid his penalties when he had personal effects wherewith to pay. In 1673 the courts made him work out debts in daily labor. The Narragansett war was then gathering.

[1] 4 Mass. Hist. Coll., VII.

National and tribal civilizations have never dwelt long together. The political power of the nation necessarily dominates the lesser civilized force of the tribe, and finally subverts the race which lingers in the ruder form, however humane individuals of either polity may be.

## Wampum and Indian Labor.

We have seen that money or currency is necessary to a new people. Another element is needed yet more. Labor[1] is a chief factor in civilized society[2] and the labor of the Indian[3] was made available through wampum. As Winthrop[4] shows, 10,000 beaver skins[5] annually came to the Dutch from the Great Lake. The chase was the primitive form of Indian industry and furs were the most conspicuous feature of foreign trade, as gold is to-day, but wampum played a much larger part in the vital trade of the time. Wampum, or the things it represented, carried deer meat and Indian corn to the New England men. Corn and pork went for fish; fish went for West India rum, molasses, and the silver which Europe coveted. West India products, or the direct exchange of fish

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[1] E. Downing to Gov. Winthrop, 1637/8, 4 Mass. H. C. VI., p. 65: "I do not see how wee can thrive untill wee gett into a stock of slaves sufficient to doe all our business for our children's children will hardly see this great continent filled with people, soe that our servants will still desire freedom to plan for themselves, and not stay but for verie great wages."

[2] This was not so easily comprehended at first. Plymouth in 1646 repealed an order against employing Indians. Col. Rec., 1646, p. 64.

[3] "The Narragansetts, the most numerous people in those parts, the most rich also and the most industrious," . . . "they employed most of their time in catching of beavers, otters and musquashes, which they traded for English commodities, of which they make a double profit, by selling them to more remote Indians, who are ignorant." Wood's New Eng. Prospect, p. 2, ch. 3, 1634.

[4] I., 113.

[5] Cal. St. Papers, Colonial, 1660, p. 144. "It is reported that they have exported thence (Manhatan) to Holland this year, 1632, 15,000 beaver skins, besides other commodities." These were partly from New England.

with the Catholic countries of Europe, brought back the goods needed to replenish and extend colonial industries and trade.

The first contact with the hardy New England colonist benefitted the native Indian.[1] The fur trade has attracted most notice. But the steel hoe, substituted for a wooden or clam shell tool in the squaw's hand, must have produced more corn to the acre, and have afforded a surplus for trade. It went to the nearest market and, by the process indicated, increased quickly the productive wealth of the colonists.

The coastwise manufacture of wampum afforded a ready means of exchange which the colonists used at their trading posts with the distant Indians. The Indian dialect is meagre enough, but Roger Williams gives a good share of words and phrases which describe the manufacture, enumeration, and exchange of wampum. *Natouwómpitees*[2] quite trippingly "makes money or coyne;" another guttural signifies "to bore through," which term, before the English came, represented the passage of a stone drill. Afterward the unpronounceable *Puckwhegonnaûtick*, "the awle blade sticks," shows the contact of the civilized tool[3] with the barbarian manufacture. If peltry was scarce, shells were always plenty and, for a long time, there was an almost unlimited demand for the genuine wampum. Alcohol, the fire water of the native, undid this benefit, but the process was gradual. The first influence of the incoming civilization was to quicken the Indian life proper, and to stimulate its barbarian labor to greater exertion, in order to obtain the largest share of the coveted civilized goods. In this view we have treated the Indian on

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[1] Canonicus, in 1636, offered John Oldham, the daring Indian trader afterward murdered, Prudence or Chibacuwese Island in Narragansett Bay, if he would establish himself in trade there. Arnold, I., 8.

[2] Key, p. 131.

[3] "Six awl blades I pay to a native to carry to Ninigret and pray you to pay six more to him that brings them to you." R. Williams to J. W., Jr., at Pequot, 1648/9, Narra. Club, VI., 164.

his own ground, as a producer by his own methods. In other connections he enters as a porter, courier, and guide, as an occasional laborer, as an ally and friendly warrior, thus becoming a partial adjunct of the growing colonial life.

## Definition and uses of Wampum.

Wampum, or *wompam*, according to Trumbull was the name of the white beads made from stems or inner whorls of the *Pyrula Carica* or *Canaliculata* periwinkle shells so common on all the south coast of New England. When strung they were called *wampon* or *wampom—peage* or *peake* or *peg*, equivalent to "strings of white beads" for *peage* means "strung beads." Color was the basis of the nomenclature, as well as of the difference in value. *Wompi* was white; *Sacki* was black; *Suckaûhock* was the black beads made from the dark part[1] of the *poquaûhock*, the common quahog, *Venus' mercenaria* or round clam shell. The value of the black was generally twice that of the white. The original use of the words is not altogether clear; some contend that there was no generic word among the Indians signifying beads. The white was dyed sometimes to counterfeit black. The word[2] generally used among the Dutch who led in introducing the bead currency of the Indians, *Sewan* or *Zeewand* was more general in its application than wampum. But whatever the difficult Indian linguistic process may have been, the New

[1] "Toward anterior end is a deep purple or brownish—black scar indicating the point of muscular attachment—fishermen call it the eye." Am. Nat., XVII., 470.

[2] *Hiqua* consisted of strings of a mollusk (*Dentalium*) called by conchologists "tusk-shells," used in Br. Columbia, two inches and smaller. "The larger the size the greater the value; forty to the fathom was the standard, fifty to the fathom being worth scarcely half so much." Am. Nat., XVII., 476. "Wampum [*i. e.*, *Hiqua*] however was *not* equally distributed [on the Pacific coast] any more than are riches in civilized communities—a point for communists to consider." Am. Nat., XVII., 479.

England men soon settled on wampum and peage as the working names for this currency.

The shell cylinders, black or white, were about one-eighth of an inch in diameter and one-quarter long. There were shorter beads used for ornaments, but there is hardly any trace of them in the currency. To bore these with a stone drill[1] was the work of a deft artisan, who must then polish them on stones in a weary round of labor, for all accounts agree that the finished product had a certain elegance of its own. It would interest us to know whether this work was done by the braves or the squaws. The beads were often used to pay the warriors for their services. Obedience was uncertain when an Indian sachem gave a command and he reinforced his authority by gifts. Canonicus says of wampum, "his wars keep him bare,"[2] and he says directly that he has paid his soldiers[3] in this currency as the colonists rewarded theirs. Roger Williams never mentions the women in connection with this work, as he does in describing those Indian operations which were carried on by the women exclusively. The product[4] was so highly prized and became so dignified by use in adorning the highest Indian personages

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[1] "In the shell heaps along the New England Coast are hidden these old flint awls of prehistoric design, which may have been spun in some cases by a small bow such as jewelers employ at present." Lawson describes the drilling "which the Indians manage with a nail stuck in a cane or reed. Thus they roll it continually on their thighs with their right hand, holding the bit of shell with their left." Am. Nat., XVII., 471.

[2] R. Williams to Gov. Vane, 1637. Narra. Cl., VI., 26.

[3] Ibid., p. 58. "Canonicus replied that, though he and Miantonomo had paid many hundred fathoms to their soldiers as Mr. Governor did, yet he had not received one yard of beads nor a Pequot."

[4] Am. Nat., XVII., 468. "An Indian's utmost manufacture amounted only to a few pence a day; and all writers enlarged upon the great labor and patience needed to make it especially at the South. Hence, the purchasing power of a wampum bead was far in advance of that of a cowrie, the dentalium of the Pacific coast, or any other unwrought shell used as money." Ingersoll. Many archeologists believe fresh water shells found in mounds and graves were used for currency in the Mississippi valley.

that we may with reason imagine the braves themselves lending their doughty hands to bring out these works of art from Neptune's raw material. Natouwómpitea,[1] another inflection of the word we have cited, denotes "a coyner or minter." While it is probable that Williams carried the figure of coinage and the analogy of the mint too far in rendering the Narragansett sounds into English words, it is certain that the office or duty he describes had weight and importance among the natives. Every one made the beads at will; there was no seigniorage, nothing like our meaning of minting and coinage. But the terms Williams adopts to convey his notion of this business of making money show that it was not a mere menial labor, like the squaws' planting of corn or dressing of game.

## Wampum Belts.

The Indians strung the beads on fibres of hemp or tendons taken from the flesh of their forest meat. These strings were hung about the necks and wrists of the warriors and adorned their wives[2] and children[3] as well. They placed the beads under their heads when they slept.[4] The strings of *peage* were embroidered on strips of deer-skin making the *Máchequoce*, a girdle or belt "of five inches thicknesse,"[5] or more, and to the value of ten pounds sterling or more, which was worn about the waist or thrown over the shoulders like a scarf. More than ten thousand beads were wrought into a single belt four inches wide. These belts were in common use like the gold and jewelry of our day.[6] They also played the same

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[1] R. W., Key, p. 130.

[2] "They (the cheefe ladies) weare a chaine of great pearls, or beades of copper, or smoothe bones, 5 or 6 fold about their necks bearinge one arm in the same." Hariot's Virginia, VIII.

[3] R. W., Key p. 131.

[4] Ibid., p. 52.

[5] Ibid.

[6] "A Sagamore with a humbird in his ear for a pendant, a black eagle in his occipit for a plume, a good store of *wampum-peage* begirting his loins,

symbolic part which survives in the crown jewels and other regalia of civilized nations. The kingly office betokened personal prowess and power, whether the incumbent was of Algonquin or Aryan lineage. When a superior sachem—the king of a later and higher civilization—took his seat, he must bear with him the evidence of power and the symbols of the love of his toiling subjects. The greater cross made the greater crown and each member of the tribe felt himself exalted by the emblems of dignity which his chieftain proudly bore in the rude assemblies of the aboriginal time. There must be wampum of the best kind and in abundance, just as the Czar at Moscow must have a gorgeous surrounding at his coronation.

The scene was pathetic when the Wampanoag Anawon surrendered Philip's regalia to Capt. Church in the fastnesses of Bristol County. The chieftain was dead. History has made him "King" Philip, to commemorate the heroism of his life and death. He almost made himself a king by his marvellous energy and state-craft put forth among the New England tribes. Had the opposing power been a little weaker, he might have founded a temporary kingdom on the ashes of the colonies. But the military science of Standish, the political wisdom of Winthrop, the steadfast endurance of English Puritans, the organized power of monied commerce and industry,—all these elements combined to create a national life too strong to be overcome by the personal prowess of Philip. Anawon was not obliged to surrender the wampum belts to Church. They were safely concealed and there was no demand for these articles so dear to the Indian in .ordinary life. But Philip was gone, his power was broken, the headship and chieftaincy of his race had faded away in the stronger light of the incoming European's power.

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his bow in hand, his quiver at his back, with six naked spatter lashes at his heels for his guard, thinks he is one with King Charles." Wood's New England Prospect, p. 66, 1634.

The most trusted warrior, councillor and friend of Philip went out quietly, brought the three or four wampum scarfs—splendid in his eyes—and gave them to his conqueror. The trinkets were not only valuable in themselves; they also symbolized and embodied a complete submission to the more mighty men, whose prowess had prevailed over the Indian. The largest scarf, nine inches wide, pictured with birds and beasts and flowers, when laid over the shoulders of the sturdy Rhode Islander swept his ankles. Another belt designed for the head carried two flags attached to it. Governor Winslow, in his letter to the king accompanying the spoils of Philip, speaks of them as "being his Crowne, his Gorge and two Belts of their own making of their goulde and silver."[1]

Gold it was not, coin it was not, but the governor correctly described it as "their gold." This quality gave it the attributes of a currency in the growing intercourse with the colonists. It was this quality, this costliness, which impressed the barbaric imagination and made the wampum a high symbol in every ceremony, political or religious. Whenever the Indians made an important statement in their frequent negotiations, they presented a belt to prove it, to give force to their words. "The hatchet fixed in the head"—one of the most forcible of their many figures, expressing a sense of wrong, a legitimate grievance—this hatchet must be removed by something more powerful than words. A belt was presented to discharge the grievance, and not by mere purchase. The value of the beads could hardly have been of consequence to a haughty confederacy like the Iroquois or Five Nations. It marked the gravity of the apology. It gave to the words the weight of hard physical facts and made the expressson an emblem of great force and significance.

The philologists call this literary office, this symbolic function of wampum, an elementary mnemonic record.[2] The same was fulfilled by the quippus, knotted strings or *quipu* of

[1] June 26, 1677. Arnold, I., 378. Citing original in B. S. P. O.
[2] Taylor, The Alphabet, I., 18.

the ancient Peruvians which were buried in their graves.[1] It is an ideogram in the bud; the expression of an idea by association to a mind which has not yet conceived those abstractions, we express through writing. "This belt preserves my[2] words" was a common remark of the Iroquois Chief[3] in council. It conveyed the words, giving warrant and sanction to the first communication, then preserved the facts by this symbolic association. The Iroquois were a mighty nation, almost an incipient state. Their only records[4] were in these mnemonic beads. To preserve them was a solemn office, and in important councils, the wampum keepers walked through the serried ranks of councillors reading from the belts the facts suggested to their memory. These facts had been "talked into" the beads, literally.[5] A mystic power animated the beads, thus quickened by the acts and deeds of this simple but intense savage life. The summons to war was in red or black, while peace messages were woven in purer white. When a communication excited anger, men kicked the belt about, in contempt, and a black belt accompanied words of condolence, becoming a sad token of mourning and sympathy.[6]

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[1] Dawson, Fossil Men.

[2] Morgan, Ancient Society, p. 139.

[3] "Of wampum as a substitute for letters, we have as yet no trace in Europe." Dawson, Fossil Men, p. 144.

[4] "According to the Indian conception, these belts could tell, by means of an interpreter, the exact rule, provision or transaction talked into them at the time, and of which they were the exclusive record. A strand of wampum consisting of purple and white shell beads, or a belt woven with figures formed by beads of different colors, operated on the principle of associating a particular fact with a particular string or figure; thus giving a serial arrangement to the facts as well as fidelity to the memory. These strands and belts were the only visible records of the Iroquois; but they required those trained interpreters who could draw from their strings and figures locked up in their remembrance." A Sachem was Keeper, and he had two aids. Morgan, Ancient Society, p. 142.

[5] "Their most mysterious fabric was wampum." Parkman, Jesuits in North America, p. xxxi.

[6] Parkman's Pontiac I., pp. 145, 148, II., 272.

## Wampum in Exchange for Beaver.

We must consider these potent principles which lie at the base of all currencies, in estimating the character and influence of the intercourse between Indians and colonists which was regulated and sustained by wampum. Value in use, and value in exchange, both enter into the foundation of a currency.[1] The Long Island, Pequot and Narragansett tribes, had an article which was desirable in itself and which enforced a barter with those inland tribes rendering an equivalent to obtain it. Barter began, but this did not constitute a currency. The article useful and desirable in itself, must have an essence of exchange, a force within itself which could compel not only that particular exchange but any exchange at the will of the owner.[2] This exchangeable quality was contributed by furs and especially by beaver. The colonist desired corn and venison, but all the world desired beaver. Wampum was the magnet which drew the beaver out of the interior forests. The beaver went to Europe; but the wampum remained, an equivalent value, as long as the Indian was a sufficient force in the rising colonial civilization, to maintain the circulation. The European possessed arms and gun-powder which far surpassed the ruder aboriginal

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[1] The reverse principle prevailed recently on the Pacific coast, where it was hoarded, as a superior deferred value. On the Pacific coast "a young fellow sometimes procures it as an investment, laying away a few strings of it, for he knows that he cannot squander it at the stores; whereas if he really needs a few dollars of current cash he can always negotiate his shells with some old Indian who happens to have gold or greenbacks." Am. Nat., XVII., p. 479. Merchandise of any kind, even specie, may not inspire the local demand necessary in a good currency. We can see this in quite recent times. The Cowry *Cypraea Moneta*, a native of the Pacific and the Eastern seas, is used for money in Hindostan and many parts of Africa. In 1849 nearly 300 tons were imported into Liverpool and India ports, then exported for barter with the coast of Africa. Stearns, Am. Nat., III, 5.

[2] Some writers call the original use of wampum among the natives a currency. I think this is not a proper use of the word.

weapons, and he possessed stores of strange goods and wares, never imagined in aboriginal life. But he likewise possessed a talisman more potent than either or all of these things. Organized commerce could compel industry, could exact all the spasmodic labor possible to the barbarian. Fish, lumber, beaver, all equally desirable in Europe, could be obtained by the co-operation of the red men with the white. Wampum was the latent force which compelled the other products into action and kept up the equilibrium. Wampum had a certain dignity, which its usefulness, its exchangeable value, and ceremonial observance had engrafted upon it. It was a jewel, first used for personal adornment; then it became an emblem significant and powerful in all the phases of native life. They counted and cast it by a well developed and convenient system of numerals. By using grains of corn[1] to tally the calculation, they ran up into high numbers quickly and correctly. *Nquittómpscat*[2] was one penny, at six pence they condensed the inflected *Quttashâumscat* into *Quttauatu.*[3] At twelve pence, one shilling, with the same process they dropped the agglutinating numeral, denominating it *neen,*[4] that is two sixpences. At five shillings the long word changes again into *Piúckquat* which equals ten sixpences. *Piùck* meaning ten. "This *Piúckquat* being sixtie pence, they call *Nquittómpeg*, or *Nquitnishcaüsu*, that is one fathom,

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[1] R. W., Key, p. 42.

[2] Since writing out my view of Williams' measures, Hon. J. Hammond Trumbull has favored me with the following and other suggestions: "The unit of measure, as he gives it, is *ompscat* or *aumscat*, which Eliot and Williams both use as the Indian equivalent for a 'penny.' This word seems to have originally denoted a span, or a hand's breadth; though I am not quite certain of this. Eliot in Matt., 20: 2, wrote *nequt-omskot* (*-nquittómpscat* of Williams) for a 'penny.' To this name or measure all the values given in Williams' table are referable."

[3] So he says, they call two sixpences "their *quttauatues-neèn*, which seems to stand for a 'couple' or 'double.'" Trumbull.

[4] A form of the simple numeral *Neèsse* two.

five shillings."[1] *Nquittemittânnug* was one thousand, and *Nquitpausuckéemittânug* was one hundred thousand.

Williams' system of enumeration was written down, after this long process of trade I have described had worked itself into custom, and had been defined in law. His Indian words, as well as his translations, are names of operations, which had been going on before his eyes, for a dozen years or more. They are the results of mutual intercourse. How much is strictly aboriginal, and how much came from his own consciousness, we can never know.

## Unit of Measure and Unit of Value.

The unit of measure,[2] first used among the natives, had no closer connection with an English foot than twelve linear inches have to do with the foot on which the European stands. The cubit was used among the Iroquois in early transactions, and we wonder that the New England men did not put it among the remarkable evidences of prophecy, by which they fondly identified the North American natives with the ten lost tribes and the old testament of the Hebrews. This unit of measurement was customary in aboriginal traffic and extended from the end of the little finger to the elbow joint. Probably the standard came from the easy process, which catches the string of beads in the first knuckle of the little finger, runs it down the forearm and marks at the elbow with the other hand; then it hangs the elbow mark on the

[1] "Many, probably all Indian tribes had names of measure corresponding more or less nearly to the English *inch*, *span*, *foot*, *cubit* and *fathom*, but none of these names are used in Williams' list of wampum values, except ôhmpscat." Trumbull.

[2] Says Lindstrom in New Jersey, in 1640: "Their way of trying them is to rub the whole thread full on their noses; if they find them full and even, like glass beads, then they are considered good, otherwise they break and throw them away. Their manner of measuring their strings is by the length of their thumbs; from the end of the nail to the first joint makes six beads." Am. Naturalist, XVII., 468.

knuckle, repeating the operation rapidly and at will. It was literally a handy[1] method of measurement. In theory a short man was equal to a long one, like the custom of our modern tailors in selling a suit. But the North Americans were shrewd as well as cautious, and the slow Dutch complained that when a trade came to final adjustment, the tallest aboriginal man appeared to measure and receive the wampum. Apparently this unit of measure merged into the unit of count or value, as easily as the English pound of the currency changes from weight to value. We hear nothing of this cubit as a measurement in any recorded transactions with the Indians, after the period[2] when wampun attained the dignity of a legal currency.

## The Fathom of Wampum.

The fathom was a name for a count, an enumeration of beads. "This *Piúckquat* being sixtie pence, they call *Nquittómpeg*, that is one fathom, five shillings."[3] Sixty pence, the fathom of beads, was more or less, according to the number of beads allowed by the statute to be equivalent to a penny. If the number was six, then the fathom was 360, but if it was four, as under the Massachusetts standard of 1640, then the fathom numbered 240 beads. We are not to forget that this was a fluctuating standard of value. The tributes of the Indian tribes to the colonists were usually payable in

[1] Am. Nat., XVII., p. 477. Quite recently "among the Hupas in Oregon, nearly every man had ten lines tatooed across the inside of his left arm, about half way between the wrist and the elbow; in measuring shell-money he drew one end over his left thumb nail, and if the other end reached to the uppermost of the tattoo lines, the five shells (in 1873) were worth $25 in gold or even more."

[2] "The Capt's (Atherton's) demand was 300 fathoms for the debt, and 200 for this expedition. They paid 140, and said it was the whole, and that the difference was made by the measure," that is by the count. R. W. to J. W., Jr., Oct. 17, 1650, Nar. Cl., VI., 203.

[3] R. W., Key, p. 129.

fathoms. Contracts for the sale of lands were made by the Indians for considerations of all kinds, wampum, coats, guns, bullets, and wares of all sorts. The island of Conanicut in Narragansett Bay was sold to Coddington and his associates in 1657 for "one hundred pounds in wampum peage."

The unit of the fathom[1] of wampum brought it into correlation with the other currencies used in the colonies. The beads were at first worth more than five shillings a fathom, the price at which they passed current when Williams wrote in 1643.[2] A few years before, the fathom was worth nine or ten shillings. But beaver fell in England,[3] and that reduced the price of wampum in the colonies. The wampum was virtually redeemable in beaver, as these changes of value show. As long as the natives were active and furs were plenty, there appears to have been no difficulty in passing any quantity of wampum in common with other currencies. The Bay annulled its statutes, making the beads a legal tender in 1661.[4] Rhode Island and Connecticut followed this example soon after. In 1667,[5] the conspiracy of Philip with the Narragansetts and other powerful tribes, was reported and became a grave cause of uneasiness in all the colonies. We can see the vacillating policy of the Plymouth colonists in their statute against selling powder and shot to the natives. It was repealed in 1665, re-enacted in 1667, and repealed again in 1669. It was not because the Indian's wampum was refused that he began to conspire and finally

[1] R. W., Key, p. 129.

[2] Ibid.

[3] The fall of beaver in England probably occurred between 1635 and 1640. In 1630, according to Felt, they failed in regulating the price for colonial trade at 6s. per pound. Freed from the artificial regulation, it rose to 10s. @ 20s. Gov. Bradford says, coat beaver was fully 20s. in 1634, and Belknap puts common at 12s. in N. H., the same year, 1635. Felt makes the price 10s. 1638, Connecticut Colony rates it at 9s. In 1640, the price was 6s. to 8s. in Casco, Me.

[4] Rec. Mass., IV., part 2, pp. 4, 5.

[5] Arnold, R. I., I., 331.

fought unto extermination. But, as he ceased to be useful, he had to fight, and the relegation of his precious toil-won beads to the rank of common commodities marks the decline of the savage in New England life. The men of Rhode Island said in 1662, of the article in question that "it is a commodity."[1] It was always that and nothing more. It continued in common use for more than half a century after its lawful tenor was changed.

The colonists would not have been more reluctant to receive it in 1660 than in 1640, if the same facility of redemption had existed, if its final value had remained certain, for its continued use as an accessory currency shows that it was convenient and desirable. Labor had become better organized; corn was more abundant among the colonists; furs[2] were more remote and inaccessible. The poor Indian had become a worse savage and not a better civilized man; above all, the improving civilization of the colonies had outgrown him. It had left him struggling like a fish in the tide falling on the strand. There is not water enough to help him to swim, there is enough to keep him gasping for life. The statute only marks the date of the social change. It does not change the essential nature of wampum, beaver or silver.

### Indian Trade of Plymouth and Massachusetts.

In 1627 De Rasières[3] with a Dutch trading vessel came into Plymouth from New Amsterdam. In her cargo was a

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[1] "It cannot but be judged that it is but a commodity, and that it is unreasonable that it should be forced upon any man." R. I. Col. Rec., 1662, I., 474.

[2] As early as 1645, Johnson declares the beaver trade outgrown at Springfield, Mass., "fitly seated for a Beaver trade with the Indians, till the merchants encreased so many that it became little worth, by reason of their out buying one another, which hath caused them to live upon husbandry." Wonder Working Providence, p. 199.

[3] Palfrey, I., 238, cites De Rasières' letter written to the Hague. "They have built a Shallop [at Manomet on Buzzard's Bay] in order to go and

lot of wampum valued at £50, for the Dutch had learned its uses as a currency in their traffic with the natives. They sent this first instalment to the trading post on the river Kennebec, where it was kept in hand for two years.[1] Meanwhile the interior Indians heard of it, and the assured supply brought a demand. For some years after, the Plymouth men could hardly furnish wampum enough,[2] and the control of this currency gave them an advantage which virtually excluded the fishermen and other traders from competing for the trade of the river. They obtained constant supplies from Connecticut[3] and probably from Long Island and Narragansett. In 1634[4] Winslow was enabled to send twenty hogsheads of beaver[5] to England, nearly all of which had come through an exchange of wampum. In 1637[6] the trade in maize with the Indians up the Connecticut river was so important to the Colonies below, that they recorded an ordinance with penalties restricting it. No man was allowed to go among them or to make any public or private contract of any kind, lest "the market for corne may be greatly advanced to the prejudice of these plantacons." In 1638[7] the same

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look after the trade in Sewan in Sloup's Bay [an inlet of Narragansett Bay] * * * which I have prevented for this year by selling them 50 fathoms of Sewan, because the seeking after sewan by them is prejudicial to us, inasmuch as they would, by so doing, discover the trade in furs; which if they were to find out, it would be a great trouble to us to maintain.

[1] Baylies' Hist. Plymouth, I., 151.

[2] Bradford, Hist. Plymouth, p. 234.

[3] Baylies, Plymouth, I., 48.

[4] The first recognition of the beads as money, I find was in 1634, when the Patrons represented to the Assembly at Hague that Sewan being in a measure the only money of the country be permitted. O'Callaghan, New Neth., p. 161.

[5] From 1631 to 1636 they sent to England 12,530 Beaver and Otter. Coat beaver sold at 20s. to 24s. per pound, the skin at 14s. to 16s. Bradford, Hist. Plym., p. 346, Mass. H. C.

[6] Col. Rec. Conn., 1637, p. 11.

[7] Col. Rec. Conn., 1638, p. 18.

authority[1] fixed the price of corn brought in by any one—except Mr. Pynchon at Springfield, with whom there was a special contract—at 5s. 6d. per bushel in money, at 6s. per bushel in wampum at 3 a penny, or if in beaver according to the order at 9s. per pound. All the variations and comparative values of currencies in the colonial transactions are interesting, and I can only refer to them here. This particular instance shows that wampum had then made itself nearly equal in purchasing power to money of any kind. The Bay authorities[2] had fixed the rate in 1637[3] at six beads for a penny for any sum under 12d. In the early statutes only one rate is mentioned. Probably it was understood that the black was included at double the rate fixed for the white. In many of the later laws, the two colors are mentioned in that proportion. The usual difficulty caused by a standard of value fluctuating between different markets was experienced now. Connecticut received wampum for taxes in 1637[4] at four a penny. They tried to bring it to the Massachusetts standard, for the ordinance of 1640[5] says "the late order concerning Wampũ at sixe a penny shall be dissolued, and the former of fower a penny and two pence to be paid in the shilling shall be established." In the same year Massachusetts[6] came to the Connecticut standard, the white to pass at four and the "bleuse" at two a penny, not above 12d. at a time, except at the will of the receiver. In 1641[7] they submitted to the inevitable and made the shell beads a legal tender at six a penny in sums of £10.

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[1] And at Plymouth, 1636–7, certain persons "did contrary to the ancient laws of this colony, trade with the Indians for corne," one-half the penalty was remitted and half the forfeited corn returned to them. Pl. Col. Rec., I., 50.

[2] In 1636 "the trade of beaver and wampum was to be farmed and all others restrained from trading." Winthrop, I., 193.

[3] Mass. Rec., I., 238.

[4] Col. Rec. Conn., 1637, p. 12.

[5] Col. Rec. Conn., 1640, p. 64.

[6] Rec., I., p. 329.

[7] Rec., I., 302.

Evidently the proud merchants and capitalists of the Bay had adopted the Indian money, only when the absolute necessity of their community demanded the sanction of law. The precious maize which many writers have designated as an essential factor in the prosperity of the early colonists had yielded the first place, and shell money became the principal medium of intercourse with the natives. Stringent necessity forced men like Winthrop and Endicott to receive these barbaric trinkets on a par with solid coin of the old English realm. Englishmen learn late, but they learn thoroughly. The coin marks, the £ s. d. of their money, they adopted from the Lombard merchants who settled in London, and taught them the larger commerce. They brought these mystic symbols of civilization across the seas and stamped them on the shell treasures of Canonicus and Sassacus.

This currency reveals to us through its vagaries, two aspects of colonial life. (1), The intercourse with the natives which was so important a factor in developing the opportunities of wealth in the infant settlements of New England; (2), the growing wealth and traffic of these communities, which were forced to use the aboriginal currency, yet were constantly tending to throw it off and substitute the more current and universal silver which flowed in from the increasing West India trade about the middle of the century. The standard, even after it was recognized by law, was always fluctuating. Probably the colonists never fully believed in its value or permanency, and kept it for as brief periods and in as small amounts as possible. It circulated literally. Once I heard an inn-keeper remark that he never scrutinized the bank bills offered by his customers, too closely. But "we put the doubtful ones on the top of the layer in our till: and at the end of the season we never have any bad money on hand." The ethics of this practice may be matter for argument, but there is not the slightest doubt that it stimulates trade.

## Regulation of the Currency.

The legislators tinkered at the money question constantly. In 1640,[1] the Bay adopts four a penny for the white, and two for the blue. In 1641,[2] this was changed to six a penny, and the beads were made lawful money for any sum under £10. This year the trade was farmed out and one of the conditions obliged the lessees to redeem from Harvard College all accumulations of wampum in its treasury under £25. In 1642,[3] the rate was six a penny in Connecticut. This year the farmers of the beaver trade in the Bay were ordered to give an account of the wampum.[4] The £10 allowance instituted in 1641, lasted only two years, for we find that in 1643,[5] "it shall passe, but to the value of —." Unfortunately this amount is left blank in the record. Doubtless it was found in Boston, the central market of exchange, that shabby debtors availed themselves of this legal privilege to force the Indian currency into transactions where the ordinary and customary usage of trade would not admit it fairly. £10 was quite a large sum in the every day transactions of that period. Apparently this change of legal status did not affect the current use of this money throughout the New England colonies, as well as other districts.

Wampum had become a universal currency, exchangeable for merchandise, for labor, for taxes. By 1645,[6] the inventories of deceased colonists commonly contained items of peage, and frequently there was no other money. The story was that in 1647,[7] an old English shilling was picked up in the highway at Flushing, Long Island. It was so great a

[1] Mass. Rec., I., 302.
[2] Ibid., I., 329.
[3] 1642, Col. Rec. Conn., p. 79.
[4] Rec. Mass., II., 27.
[5] Ibid., p. 48.
[6] Felt's Mass. Currency, p. 27.
[7] Thompson, Long Island, II., p. 11.

curiosity that the public attention was attracted, many never having seen a similar coin. Judgments[1] of the courts were made payable in shell money. Wild animals, wolves and bears especially, were a serious impediment to agriculture. The rewards offered for their destruction generally went to the Indians; often these were made payable to the natives directly, by the terms of the ordinance.[2] The Dutch in New York had hardly any other effective currency in the smaller sums, and it was common in New Jersey and Pennsylvania.

## Decline of Wampum.

In 1644 the Indian trade was at its height in New England, if we may judge from the action of the United Colonies.[3] The Commissioners endeavored in vain to create a large corporation of share holders, with ample funds and numerous agents to work this traffic by systematic methods. The Bay[4] orders this proposition to be "established and confirmed for

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[1] Col. Rec. Conn., 1649, p. 193.

[2] Thompson, Long Island, I., 470.

[3] Winthrop, 1644, II., 160. Palfrey thinks Winthrop refers to the scheme of Corporation for Indian trade in the United Colonies. Boston merchants saw great trade in beaver, coming from the North-West. They "petitioned the court to be a company for that design, and to have the trade which they should discover to themselves for 21 years. The Court was very unwilling to grant any monopoly but perceiving that without it, they would not proceed, granted their desire." In 1643 or 1642 there was "great store of beaver" from Boston for London. Winthrop, II., 150.

1644, Jt. Stock Co. for Indian trade. "This scheme appears to have originated in Massachusetts. (Mass. Rec., 60. Comp. Win., II., 160.) I do not know that anything came of it, though Connecticut agreed to engage in it, 'if other jurisdictions do the like.' Plymouth declined on account of insufficient means, as well as of doubts about its success."

Palfrey, II., 152. Plym. Rec., II., 82.

1644. "The propositions of the Commissioners concerning a general Indian trade (except corne, fishe and venison) is also approved and settled by the Court, vppon the terms therein propounded, if other jurisdictions doe the like." Col. Rec. Conn., I., 113.

[4] Mass. Rec., II., 86.

ten years." No changes were registered in the legislation until 1649, when the receipt of wampum in the Massachusetts was forbidden for taxes or "to country rate."[1] But in the same year the same authority ordained that, "it shall remayne passable from man to man."[2] When the State puzzles over a rickety currency, a common device is to pass it out, and refuse to pass it in. We cannot ascertain certainly whether the fluctuations in the value of the beads or the rating per penny noted in the statutes were occasioned by an over supply of the article, or by other causes. Probably many causes combined to change the faith of the merchants in this barbaric medium. During our civil war, the legal tender notes of the United States fluctuated violently in their gold value; the changes were often illogical and the causes were hard to trace. I think it is clear that, as the colonist increased, the native had less relative power in maintaining his own money. In the early statutes the Indian is not mentioned as differing from other persons in the exchange of wampum, whether for receipt or payment. There was no occasion to single him out, while the red man had corn, furs, and meat in plenty. All men were then economically free and equal before the law. In 1644 as we have seen, the trade with him received the best attention and called forth all the energies of the State. By 1649[3] his money dropt from the tax gatherer's list, and the aboriginal man is no longer financially equal to the European intruder as we shall farther see.

Roger Williams reflects the anxiety prevailing in the native mind when he asks the younger Winthrop whether "the *peag* will be sold at under rates."[4] To understand this fully, we

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[1] Ibid., 167, May 16, 1649, also II., 279, May 2, 1649.

[2] Mass. Rec., III., p. 153.

[3] In 1655 the Colony allowed to the Treasurer £35.10 for peag burnt with the Treasurer's house, showing that it was still in circulation in Massachusetts. Felt, Mass. Currency, p. 37.

In 1659 Rehoboth makes a town contract for £8, payable in wampum. Bliss, p. 48.

[4] R. Williams' letter, March, 1648/9, Nar. Cl., VI., 171.

must consider the relations of the two governments, Indian and Colonial. The shrewd administrators of the United Colonies had devised a scheme by which the native, while being improved off the face of the land, should pay in money for the protection of that paternal government, which gently, piously, but firmly did the work. The Wampanoag, Narragansett, Pequot and other tribes agreed to pay, and often did pay substantial tributes in wampum to the various authorities in the United Colonies, which were able to exact them. This matter of tribute has created much discussion, and the equity of these transactions has been seriously questioned. If any one can discover a universal standard of justice between opposing civilizations, he will be able to render a final verdict in this question, as well as other Indian problems. In this same year, Williams continuing the sentence cited above that *Punhommin* coming from the Bay reports that "they must pay great black at thirteen to the penny, and small black at fifteen, and white at eight. I tell them last year it was measured, and so word was sent to me they should pay it by measure." Probably the rate of depreciation was exaggerated, for at other times Roger[1] freely and forcibly expressed his conviction that his native friends could not be depended upon. It will be noted that, in the violent fluctuations of value in the beads going on at Boston, which this report shows, both parties were forced to abandon the unit by count in pennies, and go back to the unit of measure in settling tribute. The terms of the tribute were almost always stated in fathoms of wampum, but Williams' correspondence would indicate that sometimes the payment was made by count,[2] or market value and sometimes by measure.

Rhode Island and Providence were more affected by the Indian community than all the other colonies, for many

[1] "All Indians are extremely treacherous." To Gen. Ct. Mass., 1654, Nar. Col., VI., 276.

[2] "In 1649 Ninigret alledged that about 600 fathom was payed by measure which he accompted by tale wherein ther was a considerable difference." Hazard, H. C., II., 131.

reasons. The circumstances of their foundation, their weakness and location amid the most powerful tribes, the friendly intercourse of Williams and their leaders with the sachems,—all these facts combined to enforce harmonious relations with the diminishing aboriginal power. Accordingly the Rhode Island statute,[1] made only two months later, shows that they made the Indian equal to the colonist, and kept his money at better rates than prevailed in Boston.

## Counterfeit Wampum.

When wampum commanded the market and was most available, much trouble was occasioned by the introduction of bad, counterfeit, and ill-made beads. The Indian, always a cautious and astute trader, knew the article best, and would refuse any but regular specimens. This compelled the colonists to struggle with the inferior portion, which had no value for them, except as a medium of exchange. Massachusetts ordered in 1648,[2] that it "shall be intire, without breaches, both the white and the black without deforming spotts." And they now instituted a process more like coinage than any thing which Williams found among the Indians, and described in the familiar terms of the mint. They enacted that the beads should be properly strung into eight

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[1] Noe person within this Collonie, after the tenth of June next, shall take any black peage of the Indians, but at four a penny; and if any shall take black peage of the Indians under four a penny, he shall forfeit the said peage, one-halfe to the informer, and the other halfe to the State." R. I. Col. Rec., I., 217.

May 23, 1649. Roger Williams gives a version of this law differing from the plain construction of it. He says to J. Winthrop, Jr., "one law passed (at Warwick), that the natives should no longer abuse us, but that their black should go with us as with themselves at four a penny." Nar. Cl., VI., 180, May 26, 1649. His motive may have been to impress on Winthrop that the Providence Colony would not be too favorable to the natives, as the United Colonies were pressing them for tribute.

[2] Mass. Rec., III., 146.

known parcels: 1d. 3d. 12d. 5s. in white; 2d. 6d. 2s. 6d. and 10s. in blacke. This made a complete series of "change." This was in consequence of the suggestion of President Dunster, of "the College at Cambridge," who had in the same year called the attention of the Commissioners of the United Colonies to the matter of bad, false and unfinished peage, recommending the General Courts to remedy it. Connecticut in 1649,[1] ordains that it be "strunge, and in some measure strunge sutably, and not small and great, vncomely and disorderly mixt, as formerly it hath been." The loose and imperfect, driven from New England, went West and passed at a slight discount in New Netherlands, aggravating the difficulties already existing there. No currency can maintain its functions, unless it is sustained by some community or body of a community which believes in its value, and with sufficient ability to uphold the conviction. As already intimated,[2] the time must come when the power of the native, as an economic agent and producer in the mixed colonial society, must fail. This occurred in 1661 and 1662, when all the New England colonies ceased to receive wampum as a lawful currency.

## Survival of Wampum.

This action did not drive it out of circulation. It had a *quasi* legal foundation long after.[3] In 1666[4] Connecticut grants

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[1] Col. Rec. Coun., 1649, p. 546.

[2] See previous portion of this monograph.

[3] Rhode Island recognizes it in Statutes,

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| At six | per pen. | 1655, | R. I. C. R., I., 308. |
| " eight | " | 1658, | for court fees, I., 400. |
| " six | " | 1659, | " " I., 412. |
| " sixteen | " | 1670, | " fines, II., 297. |

In 1669 Long Island Indians paid Ninigret five pounds tribute in peage at six a penny. Ibid., II., 270.

[4] Col. Rec., Conn., 1666, p. 52.

"to Norridge 50 fathom of *Wompom* or the effects thereof." According to the reports of a renegade white, Philip[1] failed in some of his projected arrangements for ammunition in his great campaign, because New England money would not pass with the French as readily as wampum or beaver. New York continued the beads in circulation longer than the regular use prevailed in New England. In 1693 they were recognized in the definite rates of the Brooklyn ferry.[2] They continued to be circulated in the more remote districts of New England through the century, and even into the beginning of the eighteenth. Madame Knight found "Wampom[3] viz., Indian beads which serves for change," classed as money in Connecticut in 1704.[4] She notes definitely that it was current with silver, and was not in the class of "country pay," which included provisions and other produce.[5]

## Results of the Use and Disuse of Wampum.

The use and disuse of wampum indicated in these pages shows that: (1.) There was an intimate intercourse of white and red men in colonial life during half a century, which largely increased the resources of the new community. (2.)

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[1] Nart. Cl., VI, 382–167. R. Wms. to Gov. Leverett.

[2] "In 1693, the ferriage of each single person from New York to Brooklyn was eight stivers in wampum, or a silver two pence. Further than this we are unable to trace, though we have good reason to believe that it circulated to a limited extent, for sometime thereafter." Woodward, Wampum, p. 58.

[3] Journey Ed., 1865, p. 56.

[4] "Kalm saw it among the Hurons and also below Quebec in 1748. So slow, in fact, were the red men to relinquish this currency, that wampum continued to be fabricated until within fifty years in several towns of New York State (chiefly at Babylon, L. I.) to meet the demand for it by western fur-traders." Am. Nat., XVII, 476.

[5] Am. Nat., XVII, 475. In 1673, when the true wampum had become very scarce, owing to the hoarding of it by the Indians and its disposal to remote tribes, "the Dutch council, therefore, issued an edict advancing its legal value twenty-five per cent."

After the commercial, industrial, or purely economic element in this life had worked itself out, there was little wholesome or prosperous intercourse between the two races. (3.) The efforts of the colonists to turn the natives to another civil and religious system, to tear them out of aboriginal life and plunge them into the Hebrew-European living of the new comers,—to civilize them into copper-colored Puritans—failed, and from the nature of the case must have failed.

The first proposition proves itself in the facts, we have already seen. The second is sufficiently apparent in the decay of the great aboriginal trade which culminated about 1645 in the declining export of beaver and aboriginal products, in the growing export of the products of colonial agriculture and industry. These are the homely economical features of the life of the time. There are some larger lineaments of humanity, which the history of the epoch tortures into tragedy, and stains with blood, shed by infamous treachery. We may only allude to the peaceful life aud death of Canonicus of Narragansett, of Chickataubut of the Massachusetts, and of Totanimo of Connecticut, contrasted with the melancholy end of Miantonomo and the tragic death of Philip, to illustrate the good and the ill of that momentous contact of races on New England soil. Philip met death after a manly struggle, which any Aryan or Indian might be proud to have made. But no descendant of Bayard or Sydney, and especially no Rhode Islander can read the story of Miantonomo,[1] without that tingling of the blood which sends pain through his fingers, and that melting in his eyes which sends a thrill to his heart. Winthrop found a

[1] "In all his answers he (Miantonomo) was very deliberate and showed good understanding in the principles of justice and equity, and ingenuity withal. He demanded that his accusers might be brought." Winthrop, II., 80. "None has been so painful in the whole progress of my labours, as this which relates to the treatment of Miantunnomoh by our fathers. Such a case of perfidy, or cruelty, or both, it is impossible to pass without animadversion." Mr. Savage's note. Winthrop, II., 133.

man in the noble savage, and his candid editor, after the softened life of two centuries, calmly admits and regrets that fierce treachery, which animated the New England men in this horrid affair. These astute men of the United Colonies, more cunning than Uncas, sacrificed the friendly Miantonomo for the good of the State, as they conceived it. Yet it was not that larger necessity which has sometimes forced leaders to do an immediate wrong for the ultimate good of the whole. They killed the native Prince in a theologico-political delusion, in a hunt after the heterodoxy of Gorton at Warwick. It was not even a direct punishment of heresy. It was, as Mr. Savage[1] suggests, the slaughter of an innocent man of another race and different religion, because he had dared to befriend the believers in an anti-Puritan dogma. The sad death of Miantonomo was comparatively early in the mixed aboriginal and colonial life we have been treating. But the principle which animated it, belongs to the essence of our main proposition. If Miantonomo had been false, if the Commissioners at Hartford had been more humane, if Philip[2]

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[1] Winthrop, II., 134, ed. 1826.

[2] It adds little to the magnificent work of Dr. Palfrey to say that his conclusions, in his statement of native and colonial conflicts, are on the whole well-grounded. But his view of Philip is hardly consistent with itself. He describes him "with a strenuous purpose, a capacity for political combination, and an aptness for influencing the action of men, such as belong to minds of a high class, he slowly matured a conspiracy," &c. &c. (III., 222). This is all that one would claim for him now, and it is all that he could have been, if the present writer's view of the two civilizations be correct. In combating Hubbard and the later writers, he rates Philip too low politically. The inconsistent details in Palfrey's picture proceed from the tacit assumption that the native ought to have been a better convert to the colonial system of living, of civil government, and of worship. He admits "it were to be wished that the Colonists had borne their superiority with more meekness." (III., 218, note). But this in the small type of the notes. The humane side of the story is written small while the political necessity is in the larger expression of the text. And he says, "He (the Indian) was not ready, it is true, to be transformed from a hunter into a herdsman." (III., 140). I presume he means an agricultural herdsman. That is

had been less bold and sagacious, the final result would not have been different substantially. "Canonicus, the old high Sachim of the Narragansett Bay, (a wise and peaceable Prince) often repeated this word Wunnaunewayeán, Englishman." "If the Englishman speaks true, if hee means truly, then shall I goe to my grave in peace, and hope that the English and my posteritie shall live in love and peace together,"[1] says Roger Williams.

## Conflict of Race.

It was not a matter of morals, as this gentle natured son of the forest fancied. Good intentions mitigate, but they cannot avert the inevitable conflict between races in different stages of civilization. While the conflict was in abeyance, the better individuals of both races tried to keep the peace and to maintain the best concord possible. On the one side was a rude system of justice administered through the courts by due process of law; on the other, private war and the blood feud were not only allowed by the totem system, but they rested

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always true, for there is no instance where a tribe has passed from hunting and savagery to quiet agriculture. We have succeeded most imperfectly in attempting this with Indians, in territories whose grazing lands are to those of early Massachusetts as a sloop's main sail is to a pocket handkerchief. When the conflict was gathering, Philip plotted, dissembled, gained time, lied even worse than the Hartford Commissioners did in 1643. How, otherwise, could a good savage have conducted the war? Ulysses would have blamed him, if he had gone into Plymouth and told Winslow that he should attack him on a certain day. Because Philip was dirty, the Massachusetts historian dislikes him. Probably some of the dirt reported clinging to Philip was metaphorical: in any event it did not neutralize his rights as a man. Whether the Creator of men made them all free and equal or no, it is certain that he did not create them clean. Cleanliness is a thing of slow growth and painful administration. Let us treat the savage according to his own ideal, and not constrain him to some impossible standard, derived from weak parts of all the races who have dealt with him.

[1] R. W., Key, p. 64, R. I. H. C.

on each individual native as a solemn duty. We forget that bloody crimes caused by these hereditary and structural differences of government, could not be atoned for by any process satisfactory to both parties. Negotiations, alliances, treaties, so called, were only paltry expedients to bridge over a constantly widening gap between the two systems.[1] If the barbarian could have ignored the vices of his Puritan neighbor, and could have adopted his virtues only, all might have gone well, and the blood of the American might have commingled with the Aryan stream. But generally the worst Indians and the worst colonists dwelt together, then fought themselves apart, and the power of each community was gradually enlisted, until the weaker was exterminated. When the narrowing land contracted so much that the rude hoe could not keep pace with the incoming plow of the agriculturist, the end came.

There was an absolute and actual conflict, not of good and bad men, not of will and the conduct of government, but of race, social structure, and of hereditary civilization. And I use civilization in a large sense including the system developed among the natives of New England; the native Narragansett way of living was as far above that of the dirt-eating Indians, as the Homeric Greeks excelled the Thracians. The stately historian of New England[2] is right, beyond a doubt, when he says that no sentimental admiration of Philip or the splendid Canonchet, should warp our judgment of the mighty issues of this time. Then, as always, the grand features of the contest were not in the heroes, not in the exponents like Sachem Philip, or Church, or Winslow. The essential con-

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[1] In July, 1673, the court ordered that the Indians, especially young men, running in debt to the English for necessary articles, should be compelled to work it out at reasonable rates (12d. per day), "if they have not else to discharge their just debts." Baylies' Plym., II., 106.

[2] His picture of the infant community in its "general appearance of security, prosperity, sobriety, good order, and content," (III., 137) is true historically, as it is complete rhetorically.

stituents, the permanent symbols of history, were in the social system of Winthrop and Bradford contending with the inferior system of Lenape and Mohawk. The Puritans were uncertain in interpreting the weird light of their exclusive providence. Its flashes lighted them darkly. They groped mainly in painful darkness, as we stumble through the shining circles of the electric lamp into darkness made deeper by its glow. But be assured they made no mistake in their main course and direction. The issue was civil government or savagery, and the Puritans won it. Roger Williams and the Quaker Coddington created a wonderful outgrowth in Rhode Island. This "lively experiment" had results reaching beyond the wildest dreams of its founders. But New England could not have been constructed entirely by Williamses and Quakers. There was a great force existing here, in the might of the native races; it must be met by the counter-force of law and organic government. The gentle-natured Williams—lovely man but pugnacious citizen—and the Quakers, with their vine-like love, clung to the strong natives, when thrust out from Massachusetts by the fierce administration of the Bay, just as the ivy clings to the oak. We shall believe that this love can overcome the tomahawk and firelock, when we see the lamb prevail over the lion. And yet God made them both.

Modern writers either censure our forefathers severely, or say vaguely that there were two sides to the question. True, but unfortunately the Indian's was the losing side always. The more solid justice he carried into a quarrel, the more powder and shot, organized military and accumulated social force, was poured into the scale to overcome him. Justice, there was none. The red and white man differed so essentially that one must kick the beam. There was no standard of balance between the two races. The sentiment of Christianity has never solved this terrible problem of race when government and public interest have been involved. When alien races meet, there must be either the serene justice of

superiors, like the Romans blind alike to love and to revenge, or the mild, endogenous love of the Quakers, yielding, but supported by another's strength. There is no middle ground of mixed native and cultivated forces in the history of civilization. We could not reach the results of this economical discussion without touching upon the greater issues which underlay the mere trade and intercourse of the time. The passions which inspire trade are not the largest, but they are the most certain and continuous in human history.

## Indian Land Sales.

Nothing, perhaps, has befogged American moralists more than Indian land sales. Land is worth so much in all solid social systems that every age overrates the value of barbaric uncultivated territory. We forget that the value of every soil is in the atmosphere of intelligence, industry, and virtue diffused over it, by resolute and patient citizens. We fight for land, then give it away to settlers, railways, manufacturers, anyone, who can and will bring in civilization. Were the lands of the Narragansetts and of the Iroquois worth more than those controlled by the imperial governments of England, the United States and France to-day? Yet these powers freely part with land for a slight consideration, and the first colonists almost always lose their ready capital. Those who criticize the colonists for their land transactions with the Indians, in that they purchased it for beads and other articles of trifling value in the eyes of critics, hardly comprehend the time we are studying. Moreover, they have slight knowledge of the power of a currency at any time, or of that force, inherent in the market which compels the movement of property, beyond the control of legislation or treaties. Land was abundant[1] and beads were scarce; coats and gun-

[1] "He generally retained his rights of hunting and fishing, and in these consisted the whole value which most of his land had to him before he received pay for it." Palfrey, III., 138.

powder were scarcer yet. To apply the ethics of other systems of living to these transactions is even more silly than the foolishness of the Indians themselves. The man who paid ten shillings for a beaver cap in London was foolish in the eyes of him who wore a knit cap worth one shilling. The furs became more abundant and he got his cap for five shillings. All the colonial trade changes its character in consequence of this fall in the value of beaver. We might say, with as much truth, that the London citizen whenever he bought a cap, cheated a poor Indian out of half its value.

Land titles vary with the social power which occasions them. Boston peninsula was worth so little to the settlers, that they never troubled Chickataubut,[1] the native suzerain to make a deed of it, though he never objected to the occupation. Half a century later in 1685, when Dudley and Audros were shaking the political foundations of the colony, then the citizens thought of the original owners of the soil. They resorted to the living representative of Chickataubut, his grandson Charles Josias, obtaining a deed, which they recorded gravely in 1708, that it might become a corner stone of Suffolk County. This historic evolution is an epitome of the changing process through which Indian lands passed. It was not the soil, it was the things on the soil, which transmuted shell beads into gold.

### Purchase of Newport and Rhode Island.

Aquidneck, now lighted by the brilliant villas of Newport, was conveyed in more legitimate and continuous fashion. The "liberty of conscience" men outlawed from Massachusetts, were forced to plant their homes on the most stable political foundation attainable. They extinguished the native titles to the land formally, and it was a curious process revealing the shading and intersecting lines of Indian owner-

[1] Mem. His. Bos. (Ellis) I., 249.

ship. Coddington testified in 1677,[1] that in 1636/7 he went to the local Sachem, Wonnumetonomey, to buy the island. "His answer was that Canonicus and Miantonomy were the Chief sachems, and he could not sell the lands; whereupon this deponent with some others went from Aquidneck Island into the Narragansett, and bought the Island of them." Canonicus[2] with a bow and arrow, Miantonomo with an arrow signed the deed, March 24, 1636/7, Roger Williams, Randall Holden, *Mishammoh*, son of Canonicus, witnessing by marks. The consideration was forty fathoms of white beads to be equally divided between Canonicus and Miantonomo. And a further item "that by giveinge by Miantunomus' (hand) ten coates and twenty howes to the present inhabitants, they shall remove themselves off the Island before next winter." In 1638,[3] Wanamataunewit witnesseth that he has "received five fathom of wampum and doe consent to the contents." 6th fifth month, 1638, Ousamequin[4] or Massasoit, the Wampanoag or Pokanoket Sachem of Mount Hope, freely consents that "Coddington and his friends united shall make use of any grasse or trees on yee Maine land on Powakasick side, and doe promise loveinge and just carriage of myselfe and all my men to the said Mr. Coddington and English his friends united to him, havinge received five fathom of wampum as gratuity." All this was by the advice of Williams, who directed them to propitiate all the Indians by every means. We remark that the native prince sells loving carriage and justice for five fathom of beads. May 11, 1639, Miantunnomu[5] receipts for "tenn fathom of wampum peage and one broad cloth coate (as a gratuity) for my paines and travell in removeing of the

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[1] R. I. Col. R., I., 51.
[2] R. I. Col. Rec., I., 46.
[3] Ibid., p. 47.
[4] R. I. Col. Rec., I., 46.
[5] R. I. Col. Rec., I., p. 48.

natives off the Island of Aquednecke." Three days later Weshaganesett receives five fathom and a coate "in full satisfaction for ground broken up or any other title or claime." Wanimenatoni with the symbol of a snake, inasmuch as he had received previous payments, releases the same claims for five fathoms without any coat. Then it seems that the princely word of Canonicus and of Miantonomo, to free the land of the actual inhabitants for 10 coats and 20 hoes did not hold out. For although Miantonomo had received in May an additional ten fathoms and a fine coat for his paines, he acknowledges, May 22, 1639, the receipt of 23 coats instead of the 10 contracted for, 13 hoes instead of the original 20 to distribute. These transactions complete the transfer of the fair island of Rhode Island. Theorists like Henry George, complaining of modern capitalists and landlords, of the much to a few and the little to the many in these later times, sighing for a return to primitive nature, may take heart. These princely native landowners seem to have given little to actual cultivators and occupants, and to have grasped seigniorage and brokerage with equal greed. Times are changed, and the white broker has somewhat improved upon his red prototype, for he makes but one contract, and generally sticks to it faithfully, if the principal survives to receive his share.

## Indian Polity.

This land, this districted portion of the earth's surface was the foundation of a rude polity, which was breaking down and yielding gradually under the pressure of New England society. Much sympathy has been expended upon the native inhabitant; not so much intelligence has been applied to investigate fairly his system of living. We have looked backward, from our system to his, while we should have divested ourselves of prejudices inbred with civilization. We should try to view the barbaric social system, as it looked before the more complex societies, which we call civilized,

existed. We are beginning to look into institutions from this point of view, to trace the wonderful development of custom into law, to respect that slow growth of usage, which forms social organisms. How could the Puritan conceive of this intellectual largeness of the social eye, nay, how could he act on a large charity begotten of its discoveries? He regarded each concrete act of importance, as directly inspired by God or the Devil.

The Indian's system was so deficient in the large organs and functions, which we now think essential in a state that the wonder is, it accomplished so much.[1] The French observers, not likely to over-rate any system not their own, compared that of the Iroquois to the organism of a watch, in the nice adjustments of its parts to the ordered movement of the whole.[2] While they condemned justly the barbaric system of punishing crime through one's relatives and friends, instead of through the guilty criminal, yet they admitted that bad crimes were not so common as they were under the splendid imperialism of France.

Wampum marks the passage of ideas into symbols. The belt is arrested literature, a crude germ of that ultimate statement of ideas and abstractions, which evolve in the matured imagination and instructed intelligence of civilized man. The regulated custom of a tribe is the foreshadowing of future law and formulated justice. But the illuminated wampum stops far short of the abstractions conveyed in letters, written words, logical thoughts. So the organism of tribal law and justice stops before it achieves a thoroughly social abstraction, before it subjects the individual to the whole of society. Persons stand for formulated ideas of social justice; personal vengeance must atone for personal wrong. Revenge,[3] the claim-

[1] Parkman, Jesuits in North America, p. lxviii.

[2] Parkman, Jesuits in North America, p. lx.

[3] "Among the Iroquis and other Indian tribes generally, the obligation to avenge the murder of a kinsman was universally recognized." Morgan Anc. Society, p. 77.

ing back something for wrongs suffered, underlies the barbaric idea of justice. A child learns directly or by heredity the motive, "I give you this for love." The savage child says, "I give this fruit for that sugar, this blow for that taunt." This direct responsibility, instant revenge for immediate wrong, liability of person to person was the main forming principle of savage communities. There were rude, political, religious, and social obligations, consolidated into tribal government, but underlying these was this earlier and more imperative scheme of accountability. It worked itself out in a clan organization within the tribes.

## The Totem System.

The Iroquois confederacy[1] was originally in five tribes: Mohawks, Onondagas, etc., and in eight clans, Wolf, Tortoise, etc. A Mohawk Wolf might marry an Oneida Tortoise, or a Mohawk Tortoise, but he could not marry one of his own clan. These clans were not equal; three excelled in rank so much that the traces of the lower ones are almost lost. Each was known by its *totem* mark, tortoise, etc., often tatooed on the skin. The members[2] could elect or depose a sachem or chief; could not marry within their own *totem*; could inherit property mutually; must help and defend each other, redress and avenge wrong; could give names[3] to members; could adopt strangers; and had other privileges and duties. This *totem* system was one of the very oldest human institutions,

[1] Parkman, Jesuits in North America, p. IV.

[2] Morgan, Anc. Society, p. 71.

[3] This conferring of names had much significance in savagery, where a man carried his record with him. The personal name of John, borne by a Smith or Brown, indicates no connection with other Smiths. Indian personal names frequently indicated the clan or *totem* of the individual, *i. e.*, some boy-names of the Omaha *totem* "Pigeon Hawk" were "Long Wing," "Hawk balancing itself in the air," "White Eyed Bird." See Morgan, Anc. Society, p. 78.

historic or prehistoric. It[1] has been found in all parts of the world, marking the passage of the lowest tribes into a higher barbaric state. It differed from all other kinds of organization, and it was a grouping force of tremendous power. It was founded in kinship, but it adopted and, as it never intermarried, it gave the extension of adoption to the force of blood and kin. It built up and consolidated barbaric society;[2] it was fitted to rend and destroy the better parts of civilized communities. The New England tribes[3] were not as highly developed as those master barbarians the Iroquois, but they had the same kind of totemic system.[4]

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[1] "Their most distinct characteristics are, that they mark their bodies with some common mark or *totem*, and that the members of the same group never intermarry; and thus they resembled a Sex rather than any other combination of human beings now familiar to us." Maine, Early Laws and Customs, p. 286.

[2] "Besides their generall subjection to the highest Sachems, to whom they carry presents. They have also particular Protectors under Sachems, to whom they also carry presents, and upon any injury received, and complaint made, these Protectors will revenge it." R. Wms., Key, p. 121, ed. 1827.

[3] Morgan, Anc. Society, p. 173. "Since the Mohegans are organized into gentes (clans), there is a presumption that the Pequots, Narragansetts, and other minor tribes were not only similarly organized, but had the same gentes. The Mohegans have the same three with the Delawares, the Wolf (totem), the Turtle, and the Turkey, each of which is composed of a number of gentes. Descent is in the female line, intermarriage in the gens is forbidden, and the office of sachem is hereditary in the gens, the office passing either from brother to brother, or from uncle to nephew. Among the Pequots and Narragansetts, descent was in the female line." Schoolcraft terms Morgan's *gens* a "totemic system."

[4] The self-ruling qualities in Indian Society have impressed all observers. "An Indian tribe is a singular homogeneous body—socially not politically—and if not disturbed by the intrusion of alien and discordant elements, is susceptible of being governed and controlled with the greatest ease and effect. The public sentiment of an Indian community is absolutely conclusive upon all the members of it." F. A. Walker, then Indian Com., N. A. Rev., CXVI., 365.

## The Puritan System and the Conflict.

The Puritans, if we consider their ecclesiastical system to be a part of their civil code, which it was in practice, had the most elaborate civic society then prevailing. It was the resultant of Teutonic representation, Judaism, Feudalism and Roman law, all combined. This complex octopus spread its arms about the *totem* of the poor native, tortured him for half a century, and finally crushed him. Mark that many of the acts and customs we ascribe to Indian treachery, or to their tribal and rude national politics, grew out of this peculiar social organism. The object of civil law is to make me testify against my own brother, in behalf of the state; the object of protection under a barbaric *totem*, is to prevent the state or any other power from injuring one of *us*. The intercourse of the two races began with the best traits, the most charitable virtues of either. No community has enough of these for every day life; the supply fails and law reinforces love. This intercourse ended in the vices and worst passions of both Indian and European. It could not have been otherwise, but it is instructive to study the process by which the two races tried to abide together.

The New England savage was a man of the woods, the Puritans would have made him into a peasant, a man of the fields; they did not contemplate in him a citizen, a representative man of the state. This possibility was beyond their ken; this common privilege of citizenship, the slow development of later time, was even beyond the reach of the lower members of their own race. At best, the contact of the two races was a vexed and vexatious question. We must consider the efforts of the New England men, toward a solution, in the light of their own century, and give them credit for an honest effort to make a better man out of the Indian. This effort was made within the narrow limits of their own consciousness, under inevitable conditions, which this century recognizes as the conditions of opposing social systems. The

savages were indeed children of a larger growth. Their remarkable patience, stolid endurance under torture, was a factitious virtue, bred out of manners, not out of morals. They had little of what we call moral restraint.[1] Their wills moved within certain inflexible limits of custom, but it was will nevertheless. Passionate in affection, their own children ruled them. Williams asks for a drink of water,[2] his host directs his son eight years old to bring it. The boy refuses, and Williams delivers a moral lecture on the duties of parents and children; the Indian takes a stick to flog the boy into obedience, the boy another to fight it out. The father suffers more than the child in this effort to bring manners to a foreign standard of morals. With this defective moral culture, the Indians were thrown into a complex legal system devised to keep a few rascals from hindering the easy practice of virtue among the better people, the great majority of the colonial community. The whole legal procedure was a dreaded constraint. The patriarchal judgment of Miantonomo,[3] sitting at the gate metaphorically, was better in native eyes than the best rendering of statute[4] and precedent by Winthrop and Bradford. The Indians were tempted in every way; the virtue of the Europeans was not their virtue, the white rascals were preying on them always, while red men were punished for crimes which hardly differed in their eyes from the petty virtues of the whites. Then there was the overwhelming tendency toward injustice to the Indian I have indicated already. For example, Plymouth[5] fines 40s. and condemns to the stocks a cunning citizen of Rehoboth "for goeing into an Indian house, and taking away an Indian child and som goods, in lue of a debt." There is a muddle

[1] Parkman, Jesuits in North America, p. lxxviii.

[2] R. Wms., Key, p. 45.

[3] R. I. C. R., I., 107. R. I. tried to meet this, by giving Miantonomo power to "see the Tryal" in matters involving over ten fathoms.

[4] See R. I. C. R., II., 362, in 1670.

[5] Col. Rec., III., 74.

of barbarism and the forms of civilization; debt lawfully incurred, says Pecksniff; child-ravishing and plunder, says every man in any age. How many such wrongs went unpunished; how many similar, but not indictable offences rankled in the Wampanoag and Narragansett bosom, when they stood at bay in the Swamp fight? Wherever there was a difference between man and man, it was against the native. Rhode Island enacted in 1666,[1] that no Indian should keep a hog with cut marks in his ears; nor could any one sell a sheep, swine or other skin, without the ears, under severe penalties. The inference was plain that Indians would steal pigs, if they could, and the colonists thus prevented their availing of the opportunity. But what a condition for the race, once haughty and proprietary, now dropping into subjection after 30 years of joint occupancy. The pressure of the superior race was constant and cumulating. In 1664 Plymouth fines five Indians 20s. each for misdemeanors; in 1665 five Indians owe £5; in 1668 £25 is brought forward as "remaines of the forty pound from the Indians."[2] They were condemned by the General Court to work out debts at 12d. per day. Statistics prove nothing directly, but they indicate the facts which go to the proof. In seven years from 1661–68, at Plymouth there are fifteen prosecutions against Indians for trespass and stealing, while there were only three prosecutions against whites for trespass on the Indians. These dates are all in the crucial time, when the aboriginal mind was seething and inflaming itself for the final revolt. Nevertheless the colonists tried with all their might to work out the problem according to their own ideas of justice and fairness.[3]

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[1] R. I. C. R., II., 172.

[2] Plymouth Col. Rec., VIII., 111, 113, 124.

[3] Rhode Island voted in 1673 to try an Indian for murder, by a jury of six Englishmen and six Indians, and that Indian testimony should be received. I do not find that the experiment was repeated. R. I. C. R., II., 509.

Behind all these civil processes, a dark institution older by centuries, loomed up and perplexed the councils of the jurists. The blood feud and vendetta meant treachery and vengeance to the ecclesiastical lawyer of Massachusetts, but to an outraged Indian it meant swift and certain justice. Citations from Samuel and all the Jewish law-givers would not convince a burly brave that he should not avenge his wounded honor, whenever he could, upon any individual of these powerful interlopers. A man bearing a hatchet in his head[1] and sorrow in his heart would not reason long in texts from the word of the Lord, when he met an enemy in the dark, or surprised him asleep in a lonely homestead. The colonists tried to soothe the pride of the natives by carrying the principle of the honor-price into their statutes.[2] Torts[3] went back to their original source to satisfy the crude justice of the aboriginal mind.

## The Religious Conflict.

We have sketched the economic and civil phases of aboriginal-colonial life, and it is not too satisfactory, either to

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[1] O'Callaghan, Doc'y. Col. N. Y., VII., 44.

[2] As early as 1645, certain persons are fined by the men of Plymouth one-half bushel of corn "for affray with Vssamaquine and men." Plym. Col. Rec., II., 89. "1664. It appearing that Nathaniel York did strike Obediah, the Indian, several stripes, he is satisfied from him by *half a bushel of corn*, and his fine is left to the town's determination." Thompson, Long Island, I., 314. And in Plym. Col. Rec., V., p. 31. 1669, one Mathews is "fined for beating Indian Ned, the King's peace 3s. 4d. for abuse said Indian, and his charges Mathews ordered to pay him 14s." Mark the difference in the nature of the two fines, one is to vindicate the State in an ordinary civil offence, the other is strictly an honor-price awarded to the Indian to recompense him for his personal injury.

[3] "If therefore the criterion of a *delict*, wrong, or *tort*, be that the person who suffers it, and not the State, is conceived to be wronged, it may be asserted that in the infancy of jurisprudence the citizen depends for protection against violence or fraud not on the Law of Crime, but on the Law of Tort." Maine, Ancient Law, p. 359.

the seventeenth century or to the nineteenth. The religious phase of this life was worse. Perhaps no change in the mental atmosphere of the two centuries is relatively so great as the alteration in our purely religious consciousness. Philosophers and theologians then regarded a barbaric religion as a mummery or an abomination. Few intelligent persons now would look upon the rudest man in any sincere act of worship, without a feeling of awe and respect. In 1646,[1] the Massachusetts by a positive act, forbid the natives to worship their false gods, *i. e.*, the Puritan Devil. They laid severe penalties against blasphemy, defining it to be the denial of their god, Jehovah. It is true while wampum was current and land abundant that the practically minded sachems would not regard these restrictions as vital. All people have a way of keeping their religions in abeyance, while pushing for the main chance; but none the less the inbred beliefs of centuries abide, and do their work in the fulness of time. Human desires represented in trade are common, prevalent like shoal water; the desires of the soul are deep and living springs, revealing themselves when the surface ponds are dry. When proprietary possession waned, when barbaric commodities were superseded by civilized thrift, when sons and cousins toiled in enforced servitude, when, in 1660 to 1670, the ancestral money ceased to command the market, then the Indian must have brooded over the wrongs done to his outraged faith. He had found that the garments[2] of civilization did not always cover an honest heart; was the Jehovah of the

[1] "No Indian shall at any time paw waw, or pforme outward worship to their false gods, or y^e^ devill." This was after minute provisions against blasphemy, defined as "obstinate deniing y^e^ true God, or his creation or government of y^e^ world." Col. Rec. Mass., II., 177.

[2] Ganett, alias Wequascooke, complains to the Court of Connecticut, of "such men that weare hats and cloaths like Englishmen, but have dealt with us like wolves and bears." Col. Rec. Conn., 1667, p. 529. Coat-men was a common designation of the English among the Indians.

powder-horn surely a better god than the Great Spirit or Spirits[1] of the clouds?

The effort of John Eliot[2] is one of the noblest monuments of Christian faith and devotion in all history. Whatever came of it, however meagre the result, however poor a creature was made in the praying Indian, the devotion and Christ-like trust of Eliot and his missionaries, was a mighty thing. The more sagacious colonists doubted the whole movement, but Eliot worked on and prayed. Whatever became of the poor native converts, he made New England better for all time. Eliot preached in the Indian tongue, but made his first prayer in English, not being familiar enough with the strange dialect to trust his emotions to it. A puzzled native who asked the apostle whether God would understand a prayer in the Indian dialect, penetrated deeper into the essence of things than he knew. The lips pray, but

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[1] History varies, as observers vary. Mr. Parkman, certainly the best individual authority says, (Jesuits in North America, lxxvii), "The Indian belief, if developed, would have developed into a system of polytheism." A late writer, Mr. Doyle (Eng. Col's in Amer., p. 14), says, "The belief in one overruling spirit, and also in the personal existence of the various powers of nature, is established by a wide consensus of opinion."

[2] After about thirty years trial of Eliot's experiment, Philip's war broke out. Then there were seven tolerably well-established, tolerably christianized villages of praying Indians. Seven others were in a crude way working toward this standard. Some left the villages and took part with Philip. This occasioned a panic among the colonists and a wild prejudice against them all. After the war, the stated places for Indian Church settlements were reduced to four; there were other temporary stations. There were ten stations in Plymouth Colony, ten at the Vineyard, five at Nantucket. In 1687, President Mather says there were in New England, six churches of baptized Indians. In 1698 there was reported at Natick a church of seven native men and three women with a native minister ordained by Eliot; in the village were fifty-nine men, fifty-one women and seventy children. Up to 1733, all the town officers were Indians. In 1792, there was only one Indian family. In 1846, the two hundredth anniversary of Eliot's first service, a girl of sixteen was the only known native descendant at Natick, other stations lasted a little longer, with life still more forlorn. Dr. Ellis' account, Mem. Hist. Boston, I., 271–74.

the heart speaketh. The god of the Puritan consciousness sympathized little with the deities controlling Indian life, however earnest souls like Eliot and Williams might labor to negotiate an alliance of the two unseen powers. There is a tract,[1] "Christenings make not Christians," written by Williams, long lost, and lately discovered in the British Museum. Though mainly a polemic against ritualism of all kinds, it is catholic, and throws light on the actual life of that time. It was written in 1645, just as Eliot's work began. It is plain that Williams, knowing more of native life and thought, foresaw more clearly than the Massachusetts men, and especially the English Puritans, could see, the difficulties surrounding Indian regeneration, spiritual or temporal. The change[2] in his eyes must not only convert them in the technical sense, it must remodel the whole structure of the men and their race. It was in the golden days, after the Pequot war, while aboriginal-colonial intercourse was at the flood, while it was mutual and both parties benefitting thereby, that Miantonomo and the Connecticut sachem inclined toward the Christian way. Later on, in 1654, Ninigret and the Narragansett

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[1] "They (the People of America) are intelligent, many very ingenuous, plain-hearted, inquisitive and prepared with many convictions." Under this caption, a discourse concerning the Indian's conversion, we find, "For it is not a forme, nor the change of one forme into another, a finer and a finer, and yet more fine, that makes a man a convert, I mean such a convert as is acceptable to God in Jesus Christ. . . . "Why, then, if this be *conversion*, and you have such a *key* of *Language*, and such a dore of *opportunity* in the knowledge of the country and the inhabitants, why proceed you not? . . . In matters of Earth, men will helpe to spell out each other, but in matters of Heaven (to which the soule is naturally so averse), how far are the eares of man hedged up from listening to all improper Language?" R. I. Hist. Tracts, No. 14, pp. 10, 13, 18. The whole tract is open minded and far in advance of the prevailing dogmas and prejudices of the time.

[2] "The said Sachem, and the chief of his people, discoursed by themselves of keeping the Englishman's day of worship, which I could easily have brought the country to, but that I was persuaded, and am, that God's way is first to turne a soule from its Idolls both of heart, worship and conversation. . . ." R. Wms., Key, p. 117.

sachems begged Williams to intercede with the king in England, "that they might not be forced from their religion, and for not changing their religion, be invaded by war; for they said they were daily visited with threatenings by Indians that came from about the Massachusetts, that if they would not pray they should be destroyed by war."[1] All successful "conversions" have been hastened by the temporal power. The sword of state was in the hands of men who prayed, traded, and fought—men of many affairs. Land was desirable and the Narragansetts held some of the best in the colonies. The Great Pettiquamscutt Purchase was made by Massachusetts men in 1657, the Atherton purchases in 1659, all in that country. Ninigret feared the approaching Christian who prayed so often and struck so hard in the fight, and whose appetite for land knew no satiety. Probably the praying Indians were not the best native stock. The men who wore the old clothes that Eliot carried to Natick tied to his saddle crupper, were not the men to make a new nation or to save an old one. If we try to think so, certainly Philip and Ninigret thought otherwise. Sausamon, one of the converts, informed the colonists of the rising conspiracy and Philip's men waylaid and killed him. When the revolt broke out, some of the praying Indians took the war-path with their blood relatives; after the war, these poor savages halting between two ways, neither Christian nor barbarian, declined and dwindled into decay. This was the fate of those who adopted a mongrel Christianity. The proud Narragansetts mingled their blood with that of negro slaves, and the result was not better. The great Jesuit Missions in the North West, inspired by a profound spirit of devotion, worked with all the skill of that powerful Order, produced no permanent results. We have treated Narragansetts and Wampanoags mainly, for they were the chief tribes; the principle was the same throughout all New England. The natives ceased to be fierce barbarians to become coarse dependents of an alien civilization.

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[1] R. W. to Gen. Ct., Mass. R. I. Col. Rec., I., 292.

The little shell bead with which we began is the symbol of the rise and fall of aboriginal-colonial life. Trade means to tread. With the wampum beads, red and white men trod along familiar paths in ways easy to both. Individual man met his neighbor, prompted by a common universal passion. Not for gain merely, do men strive so hard and endure so much in the intercourse of trade. Common desires draw men together in a commerce of love; gold or wampum is a symbol of that love, which if not altogether pure is peaceable, and is on the whole healthful. This kind of intercourse can serve only between man and man. When communities meet, systems clash. Land settlement, the foundation of property; civil law, the instrument of social order; religion, the outward form of the soul's being; all combine to weave the complicated and involved tissues of national or race life. In the fulness of time, this providential product, this evolution of the centuries comes. It meets another and inferior system. The barbarian reels under the shock and his system crumbles into dust, which feeds the growth of a new and stronger race.

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X

# Town and County Government

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# English Colonies of North America

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BALTIMORE
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# TOWN AND COUNTY GOVERNMENT

IN THE

# ENGLISH COLONIES OF NORTH AMERICA.[1]

**The Toppan Prize Essay for 1883.[2]**

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My researches in the Library of Harvard University have convinced me that the exact form which the local organization of each colony should assume depended on, (1) the economic conditions of the colony; (2) the experience in the management of local concerns which its founders brought from the mother-country; and (3) the form of church government and land system which should be found expedient.

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[1] This line of research, a portion of the results of which are embodied in the following pages, was undertaken at the suggestion of Professor Henry W. Torrey, LL.D. This essay was written under the stimulus derived from Dr. H. B. Adams's paper on the Germanic Origin of New England Towns, Studies, First Series, II. Read before the Harvard Historical Society, May 9, 1881.—E. C.

[2] The Toppan Prize at Harvard is for the best essay on one of three subjects in Political Science. The essayist receives a prize of $150, the gift of Mr. R. N. Toppan, of the class of 1858. Competition is open to graduate students who have pursued a regular course of study at Harvard University during the year preceding the award of the prize, and also to undergraduate seniors. The Toppan Prize was first awarded in the year 1882 to Frank W. Taussig, Ph. D. (Harvard, 1883), Instructor in Political Economy at Harvard College, for a monograph on "Protection to Young Industries in the United States," published by Moses King, Cambridge, 1883; 2nd edition, by G. P. Putnam's Sons, New York, 1884. Dr. Channing's Prize Essay was read before the Historical and Political Science Association of the Johns Hopkins University, February 22, 1884, and also, in abstract, at the first meeting of the American Historical Association at Saratoga, in September, 1884.—Ed.

## Economic Conditions.

As to the first of these historic factors we find that the physical conformation of New England, with the exception of what is now the State of Maine, necessitated settlement on the coast, and on the banks of the two rivers which penetrated the country; and necessitated, also, the spreading thence into the interior where the colonists "made their slow and painful way, much of it through the thick underbrush,—the husband with an axe on his shoulder, and what he can carry of household appendages in a pack on his back." Besides, neither the soil nor the climate were such as tempted men to live in scattered dwellings, or to cultivate large tracts of ground; and, in fine, the "nature and constitution of the place" were favorable to concentrated settlement for purposes of trading, fishing, and manufacturing, and not for an extended cultivation of the soil.

Turn to Virginia and we find a country cut into fragments by large navigable streams, forming harbors far in the interior, where the English ship could exchange her cargo of manufactured goods for tobacco grown in the vicinity. There, too, the climate was suited to a rural life, while a rich and almost inexhaustible soil was favorable to the growth of tobacco, the production of which, in the first years of the colony, was so profitable that it was grown in the streets of the only village which then existed; and so profitable that it was only by means of the most stringent laws, brutally enforced, that farmers could be compelled to grow enough food for themselves and their laborers. Where such conditions prevailed towns did not spring readily into being, nor could men be forced, bribed, or persuaded to live in them when founded.

To the south of Virginia somewhat similar economic conditions prevailed, especially in North Carolina; but in South Carolina, and to a greater extent in Georgia, we meet with large tracts of land difficult of access, and with a soil that

produced no great staple like tobacco,—the cultivation of cotton in large quantities was not profitable until after the inventions of the cotton gin by Eli Whitney in 1792–. The climate of the upland portions of these colonies was suited to the shop, but that of the lowlands, while favorable to vegetation, was peculiarly fatal to the whites.

The physical formation of the middle colonies was favorable to either the town or county system of local government, and in each of them there grew up, in course of time, a great commercial town, the inhabitants of which seem to have differed materially in modes of thought and of life from the population of the surrounding districts, which was large, as both the soil and the climate were favorable to the extensive cultivation of breadstuffs.

## Local Government in the Mother Country.

The early settlers of New England belonged to the great middle class of old England, and they brought to their new home the ideas, energies, affections and hatreds of their ancestors. The early colonists of Virginia were purely English, but, while many of them belonged to the upper and middle classes of the mother country, there was, especially in early times, a large body of "servants," sprung from the lowest class of the English metropolis. After the introduction of negro slavery, this white slavery, for such it was, nominally went out of use; but the condition of the poor white, in colonial days, at least, was not much better than that of the white servant of an earlier date, or the negro slave of his own time. The result was that in Virginia the upper class took the reins of government into their hands at the start, and held them to the finish. In New England, on the contrary, the mass of the people, from the very earliest time, seized the control of affairs, fiercely resented any encroachment on what they considered their rights, and were the governing power

when the Revolution burst upon them.[1] The institutions of the two colonies had a common origin, but so different has been their growth that their similarity can be discovered only after the most careful and exhaustive research.

The middle colonies were settled by a heterogeneous population: Dutch, Swedes, and English Puritans, Churchmen, Catholics, and Quakers, while the colonies to the south of Virginia were settled either as she herself had been, or by Scotch, Palatines, Huguenots, and English of all religions and degrees. The middle colonies gravitated towards the form of government that obtained in New England or Virginia, as proximity to one or the other dictated, while the local organization of the Carolinas was of a mixed character such as would naturally have been produced by the manner of their settlement. New England and Virginia dominated the continent, and it is to the political education of their founders that I now call attention. This education was acquired at the *town council*, the *county court*, and the *parish meeting*. The two first are well-known, but parish government in the early part of the seventeenth century, I believe, has never been satisfactorily explained; and, therefore, I will give the results

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[1] There was an aristocracy in Massachusetts in 1775, as well as in Virginia. In the latter colony the aristocracy was the ruling class and upheld the cause of the colonists as against the crown, while in the former the aristocracy shared its political rights with the great mass of the people, and, when called upon to take one side or the other, went to Nova Scotia. Does not this desertion of the New England aristocracy, when coupled with the patriotic behavior of their peers in Virginia, account for the jealousy of Washington in certain quarters at the outset of the Revolution; and does it not also account for the fact that, of the first five presidents, four came from Virginia? It would also be interesting to inquire how much influence the fact that the New England aristocracy was an aristocracy of mere wealth—derived for the most part from mercantile pursuits, while that of Virginia was a landed aristocracy—may have had at the outbreak of the Revolution.

of my investigations which, it must be remembered, have been confined to the Library of Harvard University.[1]

The first thing that I wish to make clear is the meaning of the word parish as understood by the common and educated Englishman of 1600. For, whatever the true historical meaning of the word *parish* may be, it is reasonably certain that in England in 1600, it was used synonymously with *town*, and that it conveyed to the mind of the parish officer of that day very much the same idea as did the word town, that is, it was to him a territorial distinction. For instance, note the use of the two words in the following extract: "Memorandum that this year a thousand five hundred and eighty one by the consent of the *parish* of Stowmarket there was ground made to Thomas Kyndersley and Thomas How of the ground commonly called the *town ground* of Stowmarket for the term of three years paying to the *churchwardens* . . . and the *town* further doth condition;"[2] and also note the fact that the churchwardens of Kingston-on-Thames paid 6 d. "for bringing the town pot;" and that, according to Toulmin Smith, "In country church-yards where there has never been any 'town,' in the modern sense, inscriptions will be found, both of old and recent date, naming the *parish*, *township*, or otherwise as the *town*." So much for laymen, now let us see how the law writers of the time used the words.

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[1] The best description of parish government in the olden time is Toulmin Smith's Parish; but the book should be used with great caution as Mr. Smith is an enthusiast. I wish it to be understood that I am greatly indebted to this book, and I here give a general reference to it. But all the authorities cited in the text have been carefully examined by me, and have often been found to have been strangely twisted by Mr. Smith, an example of which is given on page 19; and, furthermore, a great many of these examples have been used by Mr. Smith and myself to elucidate different matters. The best description of the English parish at the present day is to be found in "The State and the Church," by the Hon. Arthur Elliot in The English Citizen Series.

[2] History of Stowmarket, p. 133.

William Lambard, writing in 1582, says: "The minister or curate of the *parish*, and the constable, headborow or tithingman of the *town* to which any popish recusant is sent shall enter the name in a book to be kept in every parish for the purpose."[1] Sir Edward Coke in his description of "hue and cry," given further on, always uses the word town, while Sir Thomas Smith in describing the same thing invariably writes parish; while Coke in the "Institutes" speaks of "*towns* and *parishes* within any shire, riding or *town corporate*." Now, what was a town or parish?

The word for town in old law books is vill, thus "Chescun burgh és un vill" is translated "every borough is a town." Now as to the meaning of vill or town or parish, Lord Coke says that "every place shall be called a vill if it does not appear to the contrary, *but that it shall not be so accounted where there is not and never was a* PAROCHIAL CHURCH."[2] So every parish should be intended to be but one vill, but nevertheless there might be more than one vill in a parish or more than one parish in a vill.[3] The following extract will, perhaps, show this point more clearly: "And all the judges in the exchequer chamber over-ruled it to be good enough for since it was first laid that trespass was done at *Hurley*, which shall be understood a *town*, and then the defendant speaks of the *parish aforesaid*, they shall be understood all one, and two former judgments were cited accordingly for the word aforesaid couples them."[4] Sir John Fortescue says: "that the boundaries of those vills are not ascertained by walls, buildings or streets; but by a compass of fields, large districts of land," etc., and Selden, in commenting on the passage, says:

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[1] Lambard, Constables, p. 68.

[2] Coke on Littleton, 115.

[3] Ibid., 125; Fleta, 4 c. 15, s. 9; Coke's Reports, V., 67 a; Selden, de Dec., c. C. 53, p. 80.

[4] Hobart's Reports, 6. For additional cases of the use of the words by lawyers. See Bulstrode's Rep., I., 60. See also Hobart's Rep., 41—Welsh *vs.* Wray.

"It should seem that Villæ, Burgi, Civitates were, in our Chancellor's [Fortescue] time confounded in use; nowadays they are distinct: Vills being open, under the officers of the crown as parts of the county, Boroughs are particular governments and corporations by prescription or charter."[1]

These extracts and others, for which there is no room here, show that, in 1580–1640, town and parish were used both by common and educated people as convertible terms, and that a *town* was not a collection of houses, but was a division of the county; a certain parcel of land, the inhabitants of which had certain duties to perform, and certain rights to uphold, and that, as a rule, the inhabitants of one town pertained to one church, and were therefore parishioners; and that as the *town* and *parish* was commonly the same division of land, so *parishioners*, and *townsmen* or *inhabitants* were commonly the same persons; and that town or parish was used not only for a territorial distinction, but for the whole body of the inhabitants of a town or parish, as for example: "he consulted the parish," *i. e.*, the parishioners in parish meeting assembled; or "the town voted," for the townsmen[2] in parish meeting, or vestry made a by-law.

The town or parish was responsible for the preservation of the peace within its limits, for the maintenance of highways, for the care of the poor, and for the proper transaction of all business that was not manorial. It had certain rights, the most important of which was the granting or refusing money for the reparation or alteration of the parish church. It, also, as a rule, had certain rights with regard to land, which, however, will not be considered in this place.

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[1] Sir John Fortescue's De Laudibus Legum Angliæ, translated by John Selden, 2d ed., 1741, p. 47 and note (F. 10) to the same.

[2] I use the word townsmen throughout this essay in its double meaning. Here it is synonymous with parishioners or inhabitants. Further on it will be found used synonymously with selectmen. I employ the word in this manner in order to bring home the fact that it was so used by the New England people themselves, a fact which has been sometimes doubted and again proclaimed as a great discovery.

These functions were discharged through certain officers called parish officers (more properly town officers, for, as Canon Stubbs says, "there is primarily no connection between the parish and town"[1]); and by means of local ordinances or by-laws (local laws), which were made by a majority of the parishioners at a meeting called for the purpose.

This parish meeting, vestry, assembly of the parishioners or townsmen, was summoned by the parish officers; and seems to have been held in the nave of the church.[2] The summons was in the form of a notice, read in the church on Sunday, either before, during, or immediately after divine service, and proclaimed in the market-place[3]—if there was one—or posted at or near the church, and the meeting may even have been warned from door to door by the beadle. The exact form of the summons or warning was determined by local custom, but the notice in the church seems to have been necessary everywhere. To this meeting all those who had benefit of the things there transacted might come;[4] that is to say, all householders, and all who manured land within the parish. Such were technically termed inhabitants even though they dwelt in another town.[5]

The major part of such inhabitants, so assembled, could by their action, provided it was for the public good, bind all the inhabitants of the parish.[6] At these meetings business was transacted as the parishioners saw fit, although it seems to have been the custom, in many places, for the senior churchwarden to take the chair. The minutes of the meetings were kept by the churchwardens, or in some places, perhaps by a vestry clerk,—who must not be confounded with the clerk

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[1] Stubbs' Const. Hist., I., 91.

[2] See page 28 for the same practice in Dorchester in early times.

[3] Jeffrey's Case in Coke's Repts., v. 66, 64.

[4] Strypes' Annals, Vol. I., 463.

[5] Coke Reports, v. 64, 66.

[6] Hobart, 212; Coke on Littleton, III. b; Cro. Jac. Rep., 498; Coke's Reports, V., 63, and note *a*; Salkeld Report, III., 76; Coke's Rep., XIII., 70.

of the parish —; and usually, so far as rural parishes were concerned, they were signed by the churchwardens, the minister, and by such of the parishioners as desired so to do. The parson seems to have had no more share in these meetings than his personal qualities might have given him; though, undoubtedly, it was the custom in a very large number of parishes for the parson to take the most prominent place long before the Canons of 1603 attempted to give it him. These parish meetings were held regularly for the receiving of accounts (reckoning days, accompt-days), and for the election of parish officers. Besides these regular meetings there were special meetings called to consent to the laying a rate for the reparation of the church, the amendment of the highways, etc.

The parish officers were the constable, churchwardens, swornmen, waymen, etc. As to the first of these William Lambard says:[1] "The sundry names of constables or high constables that be of Lathes, Rapes, Wapentakes, Hundreds and Franchises, and the diverse names also of constables, petie-constables, tythingmen, borsholders, boroheads, headborowes, chief-pledges, and such others if there be any that bear office in towns, parishes, hamlets, tythings or borowes, are all in effect but two: that is to say constables and Borsholders." And, "as constables were to the parishes and towns, so were Borsholders to borowes and tythings."[2] The constable of the hundred was called high constable "in comparison of the constable or petie-constable that be in towns or

[1] Lambard's Constables, ed. 1611, p. 4. William Lambard was born 1536, and died 1601. The "Constables" was written in 1582, and the "Justice" in 1581. He was a distinguished lawyer, and his "Constables" is a book of the highest authority. See Bibliotheca Cantiana, by J. R. Smith and Lambard's Perambulation of Kent, Ed. of 1826 Intro. (The edition of the constables of 1611 is in the Law Library of Harvard University). For constables, see also Comyn's Digest, and Sir Thomas Smith's Commonwealth of England, p. 89.

[2] Lambard's Constables, p. 11.

parishes within the hundred, whose part it likewise is to maintain the peace within the several limits of their own towns or parishes."[1]

The petty-constable, or constable as he was usually called, was by common-law elected at the leet or local criminal court by the jury or "hommage."[2] By prescription, however, he was often elected by the parishioners at their meetings. An old law writer gives this so quaintly that I am tempted to give his own words. He says, "where the custom of the place is for the jury in the leet to choose these officers, there they may and must be chosen still; for this is a good way and custom and the best way of choosing these officers; but where the custom is otherwise there it may be otherwise."[3]

It is impossible to ascertain the exact amount of authority possessed by the constable in 1600, but it is safe to say that it was less than in former times, although there is no doubt but that the ancient importance of the constable has been much exaggerated. It is possible that he once was the head man of the town or parish, and traces of this headship are to be found in the period under examination. As, for instance,[4] by the statute of Winchester the justices were to summon the constables or two of the most honest inhabitants of every town and parish and with their consent to tax." And the constables were consulted by the justices with regard to the state of the roads within their respective parishes, and as to other matters in respect to which their local knowledge was likely to be of

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[1] Lambard's Constables, p. 5.

[2] Coke, Institutes, Part IV., 261, 262, 263 and 265, Works of Francis Bacon, edited by James Spedding, *et al.*, VIII., p. 70.

[3] William Sheppard, Offices and Duties of Constable, Borsholders, Tythingmen, etc., and other lay ministers whereunto are adjoyned the several offices of Church-ministers and Churchwardens, 1641, pages 12, 15, 17, 24. See also Lord Raymond's Reports, I., p. 74.

[4] Institutes of the laws of England by Sir Edward Coke, ed. of 1671, Part II, p. 697 and 704.

importance.[1] They, also, together with the churchwardens, summoned certain parish meetings, and took charge of the collecting and paying certain sums of money that each parish was required to contribute toward the relief of prisoners, maimed soldiers, etc.

The town or parish, as a territorial unit, was pecuniarily responsible for robberies and murders committed within its limits, unless the perpetrator was found, arrested, and delivered to the proper authority. The constable was, by common law, the police officer of the town or parish, and, as such, could take surety of the peace, cause hue and cry to be sent after an offender, and had charge of watch and ward.

The following is Coke's[2] description of hue and cry: "When any felony is committed, or any person grievously wounded, or any person assaulted, or offered to be robbed either in the day or night; the party grieved or any other may resort to the constable of the town, . . . , and require him to raise hue and cry. And the duty of the constable is to raise the power of the town, as well in the night as in the day, for the prosecution of the offender, and if he be not found there to give the next constable warning," etc. This system worked well, for, as Sir Thomas Smith[3] says: "This hue and crie from parish to parish is carried, till the thiefe or robber be found. That parish which doth not his duty, but letteth by their negligence the thiefe to depart, doth not only pay a fine to the King, but must repay the partie robbed his damages. So that every English man is a *sergeant* to take the thiefe, and who sheweth himself negligent therein."

In every town a watch was posted at night, in some convenient place to see what suspicious persons "do walk in the night," and if such were found they were stopped and examined. If there was any especial reason for it, wardsmen were

[1] Sheppard, 124 and 193. Lambard, p. 36.
[2] Institutes, pt. 3, p. 116.
[3] Commonwealth of England, p. 86.

appointed by day to arrest "Roberdsmen, drawlatches and wasters."[1] In fine, the constable had charge of the police of the parish, and in addition gave the benefit of his local knowledge to the county authorities.

In early times the churchwarden was a temporal officer; at the present time his office is spiritual, and it is very difficult to discover what his exact status in 1600 was. Lambard says that he "was put in trust for the behoof of the parishioners,"[2] while Sheppard calls him a spiritual officer.[3] Coke in reporting a case decided in 1610, while describing the office of parish clerk, says: "this office is like unto the office of churchwarden, who although they be chosen for two years yet for cause they, the parishioners, may displace them as is holden in 26 H. VIII. 5, *and although the office concerneth divine service—yet the office itself is temporal.*"[4]

The election of churchwardens was "by common right," in the parishioners,[5] but it is reasonably certain, that, in 1600, it was the custom in a very large number of places for the parson to have a voice in their election, and it is possible that he may, even at that time, have appointed one himself. As a rule there were two churchwardens in each parish, but some large undivided parishes had three, and in parishes comprising a number of townships, villages, hamlets, etc., one or more

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[1] Sheppard, p. 37.

[2] Lambard, 72 (1582).

[3] Sheppard, 314 (1641).

[4] Coke's Reports, XIII., 70.

[5] The following bonde is extracted from the records of Stowmarket (Hist. Stowmarket, 134). "9 Jan. 1576. We appoint churchwardens for the yeare ensuing John Scarlet, John Revet to provide all these foresaid duties owing to ye towne—and to make a true reckning thereof at the end of there yeare —to make in this office a faithful inventory to ye towne—to yield a true accompt at the next reckning day, and then deliver such sums of money as are due to the towne in the parishes, and remain in the Hundred—and this to do they bind themselves singly and severallie to ye towne by their handes hereto subscribed."

[6] Cro. Jac. 553 and 532; Coke's Rep., II., 38; Sheppard, 314; Salk., III., 90.

wardens was elected for each such sub-division. Their term of office was, *usually*, annual, and they were sworn and admitted by the archdeacon, who, however, could not refuse them.[1]

The churchwardens, in common law, were "taken as a manner of corporation," says Lambard.[2] And as such, they were to bring all actions at law, stating, however, that the loss or breach complained of was, "*ad damnum parochianorum.*" They had charge of the ornaments, vestments, etc., which were used in the conduct of divine service, (all of which belonged to the parishioners and not to the parson), and they were intrusted with the care of the church fabric—including the tower and bells—but not the chancel. They had no property in these things and were required to account for them when their term of office was over.

They were to observe the manners of the parson and parishioners, and to report any misconduct on the part of either, to the Ordinary at Visitation. The churchwardens *ex officio*, and four, three, or two of every parish, chosen by the parishioners thereof, and appointed by the justices of the peace, were overseers of the poor;[3] and were to raise "weekly or otherwise by taxation of every inhabitant, parson, vicar and others, and of every occupier of lands, houses, tithes impropriate [etc.] in the said parish" the funds required for the carrying into effect the poor law of Elizabeth.[4] The parish was obliged to pay the sum required by these overseers, who, however, often consulted the parishioners before deciding as to the amount; and the *manner* of raising it was by "agreement of the parishioners within themselves." This poor-rate was not necessarily borne equally by the rate-payers, "for if a parishioner . . . shall bring into the parish without the consent thereof, a stranger who is, or is

[1] Sheppard, 316.
[2] Lambard, 70; see also Salk., Repts, III., p. 90.
[3] Lambard, 77.
[4] Lambard, 38; Sheppard, 226.

apparently like to be burthensome, in this case the parishioners . . . may rate him, not only according to his ability of lands and goods, but according to the damage he bringeth or is like to bring to the parish by his folly."[1] The overseers had the disposal of the sums so raised, but were required to exhibit their accounts to the parishioners at certain stated times, and could call parish meetings on the "poor's business."

The churchwardens and the constable were "yearly to call together a number of the parishioners, and to choose two honest men of their parish to be surveyors of the works for the amendment of the highways, . . . , and ought also then to appoint six days for the amendment of those highways." But the most important duty of the churchwarden in 1600 was the care of the church fabric and of the things connected with divine service. Whatever money was necessary for this purpose was raised by a tax called the church-rate. This rate[2] could be made only after the necessity for the money had actually arisen, and then such rate was not good unless made before and with the consent of the major part of the parishioners assembled after due warning. The wardens had the collecting and disbursing of this money—unless collectors were appointed—but they were obliged to account to the parishioners at regular intervals.[3]

A body of men—synodsmen, questmen, sidesmen, or sworn-men—was well known to the writers of Queen Elizabeth's time,[4] and to those who drew up the Canons of 1641, but it is very difficult to discover any thing concerning them. The following extracts are almost the only thing that I have found. The first is from Strype's Annals,[5] under date of 1564: "To every parish belongeth . . . .; V. four or eight

[1] Sheppard, 232.
[2] Sheppard, 327.
[3] Sheppard, 332.
[4] Calendar of State Papers, Dom. 1519–1594, p. 158; Ib., 1598–1601, p. 171 and 519; Ib., 1547–1565, p. 141.
[5] 2d ed. 1725, Vol. I., p. 463.

jurats for offences given and taken. [These seem to be a kind of censors or spies upon the manners of the people] . . . .; VII. An assistance, being thirteen persons, to consist of such only as had before been churchwardens and constables." The words in brackets are bracketed in the original, Toulmin Smith leaves them out, translates the word jurat—swornmen, and on the authority of the extract so explained, says that there was in each parish a committee of arbitration—like the arbitrators of Providence or the peacemakers of Pennsylvania—all of which may be true enough, but is not borne out by Strype. As to assistance Mr. Smith says, that the old designation of the governing body of many old corporations was "Court of Assistants," and further that there was a committee of assistance in every parish, and that it developed into the *select vestry*. If this last is true, and there is no reason, so far as I know, to doubt it, the origin of the New England selectmen and of the Virginia vestry is perfectly clear.

Sheppard,[1] writing in 1640, describes sidesmen as follows: "The sidesmen or Questmen are those that are yearly chosen . . . . to assist the churchwardens in their inquiry and presentment of such offenders to the ordinary as are punishable in the Christian court. And herein it seems the course is at this day in some places to choose and swear the old churchwardens to this office, for when the new churchwardens are sworn, and the old discharged, the course is to swear the old churchwardens to be aiding and assisting to the new churchwardens: and in other places they choose *others amongst the meaner sort of the people*. And these officers also by the canon are to be chosen and made yearly in the Easter week by the minister and the parishioners, . . . . they are . . . . to present the misdemeanors of the parishioners as far forth as the churchwardens." This seems to be a description of the jurats and assistance combined. The 21 Jac. I., c. 12 men-

[1] Sheppard, 317.

tions "churchwardens, and all persons called swornmen executing the office of churchwardens." And finally Archbishop Gibson says that sidesmen and assistants are the same.[1]

From these extracts it will be seen that almost nothing is known of the office, and that even its name is strangely given. But, it seems to me that jurats, questmen, swornmen, sidesmen, synodsmen, and assistants were all one, and that there did exist in many parishes a body of men, elected as the churchwardens were, and consisting of such old wardens, constables, and other honest freeholders as the parishioners saw fit; that this body acted as an advisory board to the parish or town officers; that it developed into the select vestry of later times; and that it is the only institution which offers a suggestion as to the origin of the prudential men, townsmen, ten men or selectmen of early New England.

The waymen,[2] waywardens, surveyors, supervisors or overseers of the highways, were two in number, and were yearly chosen to that office by the parishioners at a meeting called for the purpose by the constable and churchwardens. In 1600 their duties were those of mere foremen. At that time the parish was responsible for the condition of the highways and, generally, of the bridges within its limits. Whatever money was needed to purchase material to keep roads and bridges in repair was raised by the highway rate, a rate assessed and collected as the parish saw fit.

The labor was provided in this way. The constables and churchwardens appointed six days in each year for working on the roads, and gave due notice of those days in the church. "And this being done these officers, viz., the surveyors of the highways are to see that the same be observed, and that all the parishioners do their work on the same days in manner as followeth, Every person having a plough land in tillage or in

[1] This is on the authority of Smith, as I have been unable to get hold of a copy of Gibson on Visitation.

[2] Lambard, 36; Sheppard, 193; Statute 2 and 3, P. and M. chap. 8 (1585).

pasture in the same parish or keeping there a plough or a draught, shall find and send on every day to the place designated one wain or cart, provided after the fashion of the country with oxen, etc. fit for the carriage, and with necessary tools fit for the work, and with two able men; and then and there these men must do such work with their plow, etc. as they shall be appointed to do by the surveyors aforesaid, by the space of eight hours on every of the said days under pain to forfeit for every default ten shillings. And every householder, cottager and laborer of the parish (able to labor and having *no paid servant by the year*) must by himself or some other able man be then and there ready to work, and work," etc.

The other officers of the parish were the *parish clerk* who was the parson's assistant and whose duty was to "read, write, sing, and say." The office was temporal and the officer was elected after the manner of electing churchwardens.[1] The *vestry clerk* was the secretary of the parishioners, although the records were usually kept by the wardens or the minister. When a clerk was required, however, he was elected by the parishioners for one meeting or longer; and his duty was to keep the vestry minute book, which was the record of the doings of the parishioners (townsmen) and of the parish officers (town officers), as distinguished from the parish register or record of births, deaths, and marriages.

The beadle was the ministerial officer of the parish, and executed the orders of the parish officers, and besides did duty as a police officer. The words hayward (hedgewardens), impounders—of cattle—, common driver—of cattle—, are often found in the old records and explain themselves.

In the second part of this essay I shall describe the government of some of the colonies, and contrast a few of the institutions there existing with these institutions of England in 1600.

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[1] Cro. Jac., 670; 21, James I, in B. R.

## Ecclesiastical Systems in the Colonies.

"The New England Meeting House is the symbol of much that is characteristic of New England life. Its erection was the starting point of every one of the earlier New England communities, and it has been the rallying point of everything that is distinctive in their history." These words of one of the keenest observers[1] of our early institutions will apply equally well to Virginia if we substitute church for meeting house; for the Virginia parish (in many cases identical with the county), with its vestry and churchwardens, was there the starting point of all social intercourse and of all government. With the meeting house is associated puritanism and congregationalism; with the vestry, episcopacy.

Now, congregationalism was a form of church government, and, where combined as here with puritanism, was a form of social government also. The peculiar social features of that system necessitated the settlement of a puritan colony by communities. It is to these facts, rather than to any especial religious belief, that the influence of puritanism is to be traced.

The puritans who settled at the "Bay" must not be confounded with the Pilgrims who founded Plymouth. The latter were *separatists* from the English church, while the former belonged to the Church of England, not what we now know by that name, but to the great body of Christian believers in England. Their desire was to purify the religious and social life of that church, but not to leave it. After they arrived on this side of the water they were obliged to adopt another form of church government, and, once started in the opposite direction from that taken by Laud, there was no returning. But I believe in the sincerity of their assertions on leaving England, and I believe their growth apart from the English church was much slower than is generally thought.

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[1] President Porter.

As to Virginia, the upper class belonged to the Cavaliers and the lower class had not as yet learned to think for themselves. The result was that the "Anglican" form was introduced into Virginia as soon as it was in England, and the soil being more congenial, this form developed without the struggles which it encountered in the mother country. In Virginia, as in old England, it was because the social features of the church system were suited to the life of the people that the Episcopalian form was adopted, and that, when once introduced, it intensified the action of the other factors above enumerated.

There are some striking similarities between the ecclesiastical systems of the two colonies that deserve a brief mention. In Massachusetts and Virginia, the ruling body of the various ecclesiastical organizations seized and held the right of choosing the minister. In Virginia it was the vestry which claimed to be the patron in as much as it provided the parson with house, glebe, and church; while in Massachusetts the congregation exercised the same power for essentially the same reason. In both colonies the temporal power gave an expressed or implied consent to the appointment.

Another similarity is the fact that the Episcopalians in Virginia and the Puritans at the "Bay," claimed and exercised the right of turning out whosoever should disturb them in their religious beliefs, and here again for essentially the same reason, namely, because it was the only way that a quiet and profitable existence could be secured. In both colonies the county court took the place of the Visitation. The ecclesiastical forms prevailing in the other colonies were such as were suited to the heterogeneous forms of local government there existing. Antinomianism and Quakerism were but a few steps removed from Puritanism, while the Catholicism of Maryland and Virginia was different in creed and discipline, rather than in social features.

## Land Systems.

In New England,[1] in the early days, there were large tracts of land granted to individuals, who had either adventured considerable sums of money or performed important services for the colony. But these large grants were exceptional and the policy of the rulers was to give land to such persons only as could and would found a town and gather a church. To be sure, at the first settlement, towns grew up without any such formal authorization, but after 1640 no one was permitted to settle on the vacant land within the chartered limits without permission. The General Court adopted then the system of granting lands in townships to seven or more individuals who had, as a rule, the absolute disposal of the land so obtained. Sometimes these grantees resigned their rights in favor of the town; sometimes they divided the land between themselves and such others as they chose to admit to a partnership; and thus in many cases there grew up in a town two "bodies"—so-called—one the town proper, which conducted its business through the town meeting in which, at first, any person inhabiting within the town had a vote. This right was afterwards restricted to church-members, and, at a still later date, could be exercised by those only who possessed a certain amount of property. The other body was composed of the proprietors of the undivided land who transacted their business in a meeting at which the townsman, as such, had no vote. The point, however, so far as we are concerned in this place, is that the land was not given to individuals, but to groups of persons who desired to live and worship together.

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[1] The best account of the land system of New England is by Melville Egleston, "Land Systems of New England." Unfortunately the essay was privately printed. See also "The Records of Groton," by S. A. Green, especially the introduction to the second part.

In Virginia[1] land was granted to individuals from beginning to end, and the early grants were of such great extent that certain portions of the country were said to be "cantonized by grants to particular persons."

After the dissolution of the "Company" fifty acres were given to any one who should "adventure into that country" or who should pay the cost of another person's coming. This "fifty acres" was called a "right," and great frauds were perpetrated in the giving and surveying of these "rights." The grantee agreed to "seat" within three years after date and to pay a quitrent. The quitrents were easily evaded and the "seating" was a mere form. Thus all the details of the Virginia land system seem to have been devised to secure the largest amount of land to the smallest number of persons:[2] that is, diametrically opposed to the system that prevailed in New England.

In the other colonies, no system can be traced, except perhaps in New York, where the feudal nature of the early grants is well known. I have been unable to make anything out of the material at my command with regard to Pennsylvania, and I was gratified to find that the best authority[3] on the subject had met with a similar difficulty; and what he says is true not only of Pennsylvania but of North and South Carolina and to a great extent of New York. Judge Smith, in the course of a long note, writes:[4] "Whatever uniform plan of settling the country and conveying his lands the first

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[1] In Neill's "Virginia Company" will be found much information scattered through the volume, which has a good index. See also "The Present State of Virginia," by Blair, Hartwell, and Chilton; and Beverley, *passim*.

[2] John Bolling, who died in 1757, left an estate of 40,000 acres, and this is not mentioned as an extraordinary amount of land for one man to own. Slaughter, History of Bristol Parish, p. 10.

[3] Judge William Smith.

[4] Laws of Pennsylvania, Ed. 1810, Vol. II., 137. Cited as Smith's Laws, or more commonly as Dallas', Vol. II., 137, 140, 141; see also History of Delaware County by George Smith; and "Breviate," page 56.

proprietor may have contemplated or devised, it must very early have been found impracticable on experience. At present no regular system can be traced upon the public records. The terms of sale were changed from time to time; and as the affairs of the Land-office were not familiar to the mass of the people it is not to be wondered at, that the assembly, even in the year 1755, in an address to Governor Morris, declare, 'that the state and management of the Land-office is pretty much of a mystery.'"

Thus we find that, in Massachusetts and Virginia, certain causes, so called, were well marked. The economic conditions, the ecclesiastical system, and the manner of granting lands were radically different, but, in each case, were so combined as to produce a strong and healthy growth, while the previous political training of the rulers was essentially the same. As to the other colonies the conditions were so various and combined in such a multitude of ways, that to describe properly their early constitutional history and their local governments would require very much more space than can here be given. And after all, sooner or later the Massachusetts town, or the Virginia parish and county, has been introduced into every one of them. I shall first consider the town, its early history and development, and its perfected form; then the county will be discussed, and finally the two systems will be compared with one another and with their great prototype, the *parish*.

## Local Government in Massachusetts.[1]

The towns of Massachusetts Bay may be divided into two classes: those which were settled without any formal authorization from the Company, Dorchester for example, and those,

[1] On the early history of local institutions, see Professor Joel Parker's paper on the Towns of New England (Mass. Hist. Soc. Proc., Vol. for 1866-67, pp. 14-65), in which he lays down the doctrine—directly opposed to

like Woburn, which were founded only after express permission had been obtained. First as to Dorchester. "In the year of our Lord, 1629, divers godly persons from Devonshire, Somersetshire, Dorsetshire and other places"[1] assembled at Plymouth, England, and "resolved to live together; and therefore as they had made choice of those two Rev. servants of God, Mr. John Warham and Mr. John Maverick to be their ministers, so they kept a solemn day of fasting, . . . .; and in the latter part of the day, as the people did solemnly make choice of, and call those godly ministers to be their *Officers*, so also the Rev. Mr. Warham and Mr. Maverick did accept thereof and expressed the same."[2]

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that maintained in this essay—that those towns "were not founded or modelled on precedent;" but grew, as he maintained in the Jaffrey Oration delivered in 1873, "out of the democratic principle of self-government." This system—he further maintained in the same oration—which "was inaugurated at Plymouth, commended itself to the Massachusetts Colony so that it was adopted there at the outset." It is unpleasant to be obliged to differ from so high an authority, but I do not believe that Plymouth exercised so much influence on the early institutions of Massachusetts as Professor Parker asserted. And, without arguing the question, it may be well to point out that the deference paid to the Pilgrims two hundred and fifty years ago was much less than now, or, to use a bold figure of speech, Plymouth Rock had not then attained the enormous proportions it has since assumed.

In 1870—that is, between Professor Parker's two essays—Mr. Richard Frothingham read a paper before the American Antiquarian Society (Proceedings for Oct., 1870), in which he gave the results of an examination of the early laws of several of the English colonies, which results were widely different from those of Professor Parker, and which gave rise to the remark of Senator Hoar to be found among the mottoes of this paper.

The next scholar to study this question with much care was Dr. H. B. Adams, whose papers are in the first volume of the present publication, and whose conclusions are corroborated by those arrived at here. Another essay which has been of great service to me is President Porter's paper on the New England Meeting House (New Englander, May, 1883), which is certainly not opposed to the theory here laid down.

[1] Collections of the Dorchester Antiquarian and Historical Society, No. 1, Blake's Annals, p. 7.

[2] Roger Clap's Memoirs, p. 39, in the same volume as the above.

Soon after they set sail, and on the 30th May, 1630, they landed "in health" at Nantasket. After a brief exploration of the country they decided to settle "at a place called Mattapan" (Dorchester Neck), "because there was a Neck of Land fit to keep our cattle on." In a short time Winthrop and the rest arrived and settled at various places in the vicinity.

The first entry in the Dorchester Town Records is under the date of 1632, and the intervening years had been passed "in working themselves into settlements, and incorporating into a body to carry on the public affairs of the plantation; in granting many parcels of land and meadow to, I suppose every particular person."[1] The first entries in the record book relate to the allotment of land and the erection of fences; but on Monday, the eighth of October, 1633, by the whole consent of the plantation it was agreed and ordered for the general good of the *plantation*, that on certain days, in the morning, "and presently upon the *beating of the drum* there should be a *general meeting* of the inhabitants of the plantation at the *meeting house*, there to settle (and set down) such orders as may tend to the general good as aforesaid, and every man to be bound thereby without gainsaying or resistance," and "that twelve men" should be selected out of the "company" who should name the ordering of all things "until the next monthly meeting, and afterwards if it be not contradicted and otherwise ordered."[2] The number of these men and the term of their office was altered from time to time, and their authority was in some ways diminished, in others enlarged, and completely ascertained and defined; but this order was, in reality, the beginning of the town government of Dorchester, so far as any records that have come down to us show.

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[1] Blake's Annals, p. 11.

[2] Fourth Report of the Record Commissioners of Boston; Records of the Town of Dorchester, p. 3.

All the orders in those records before September, 1634, were signed by John Maverick, John Warham, Will. Gaylord, Will. Rockwell, or any two or three of them. The first two were the ministers, and the others I have seen somewhere[1] described as deacons. In 1637 an order was signed by twenty men who appear to have been the selectmen for that year. In 1636 a "bayliff" was chosen to levy "all fines, rates and amercements for the plantation;" a mode of land registration was devised; and assessors or raters, and other officers were appointed.

So much for the early history of Dorchester. I will only add that the word "town" occurs for the first time in these records under date of February 1640 (O. S.) and that in 1642 "town-meeting" appears; and that in 1644–5 the record is "Witnessed By John Wiswell beinge moderator of 7 men George Weeks," which entry, by the way, stands immediately before the first mention of selectmen. And now, let us examine the records[2] of the Massachusetts Bay Company, and see what therein concerns towns and counties.

The first order concerning the allotment of lands relates to New England's Plantation (Salem). One of the last clauses provides that if an allotment should not be made within ten days after the arrival of an adventurer, in the colony, then he or his servant could settle at any convenient spot.[3] This order was passed at a court of assistants held the 21st of May, 1629. August 26 of that year witnessed the "Agreement at Cambridge,"[4] and a few days later it was decided to transfer[5]

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[1] History of Dorchester by a Committee of the Dorchester Hist. and Antiq. Soc.

[2] In the Records of the Massachusetts Bay Company cited as Company's Records, under date Apr. 30th, 1629, will be found the form of government adopted for this plantation. *This order* concerning lands is under date 19 May, 1629, Vol. I., 43, 44. Melville Egleston, Land Systems, p. 14.

[3] Company's Records, Vol. I., p. 363.

[4] Hutchinson's Collections, p. 25.

[5] Company's Records, I., 51.

the charter, and with it the government of the colony to New England. What further agreements there may have been between the various interested parties concerning the allotment of lands and the form of government to be adopted, or how these questions were settled, is now a matter of mere conjecture.[1] The order above referred to may have been extended or a new order may have been adopted. All we know is that the settlers of Dorchester, and after them the founders of Charlestown, Watertown, and Boston, settled on sites of their own choosing, allotted lands in severalty, and, in fine, appear to have considered themselves as much entitled to their lands before any grant whatever was made by the General Court, on this side the water, as they did after that time.

At one of the first meetings it was ordered "That Trimountain shall be called Boston, Mattapan Dorchester,"[2] etc.; and all persons were warned against settling within the Company's limit without leave. At a Court of Assistants held shortly after, John Woodberry was chosen constable for Dorchester, and at that meeting, or at the next General Court, constables were chosen for the other places, and this continued to be the way of appointing them for some time, but what that officer's duties were in early times does not appear.[3]

On the first of April, 1634, the following order was passed, namely, "that the constable and four more of the chief inhabitants of every town, (to be chosen by the freemen there,) with the advice of some one or more of the assistants,"[4] shall

[1] Melville Egleston, Land Systems of New England, p. 24.

[2] The Records of the Company of Massachusetts Bay are generally called Colonial Records after this date, but I shall continue to cite them as before, Company's Records, I., 75.

[3] See however "Norman Constables in America," Studies, First Series, VIII, by H. B. Adams, Ph. D. The duties of constables as described by Dr. Adams apply to an England of a time not considered by me, and also to the constables of Plymouth and Salem, both of which towns had an anomalous form of government in the early times. See also on this point Company's Records, II., pt. 1, p. 324.

[4] Company's Records, I., 116.

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make a survey of the "lands of every free inhabitant there and enter the same on a book," a copy of which was to be given to the General Court. All sales and grants in the future were to be dealt with in the same way, and "this assurance of lands," as it was called, was extended the next year to such as were not freemen, but had taken their oaths respectively.[1] At the meeting of the General Court held the 14th May, 1634, the representative system[2] was introduced, the plantation or town being adopted as the basis. The jury system was introduced, and taxes were to be in the future levied on real and personal estate and not "according to the number of his persons."[3]

The General Court at the same time that it passed the order for a standing council, devised a system for the future settlement of plantations. It declared "that the major part of the magistrates shall have power, . . . to dispose of the sitting down of men in any new plantation, and that none shall go without leave from them,"[4] and "that such as shall build houses in any town liberties prejudicial to the town, without leave from the town, the inhabitants of the said town shall have power to demolish the said houses, and remove the persons.[5] And it was declared that for the future the General Court would not recognize any church, unless such had been gathered with the approbation of the magistrates and the elders of a majority of the churches within the colony, and that the members of such churches only should hereafter be admitted to the freedom of the "*commonwealth*."[6]

In March, 1635, it was ordered that as "the particular towns have many things which concern only themselves, and

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[1] Company's Records, Vol. I., p. 137.
[2] Company's Records, Vol. I., p. 118.
[3] Company's Records, Vol. I., p. 120.
[4] Melville Egleston, Land Systems; Company's Records, Vol. I., p. 167.
[5] Company's Records, Vol. I., p. 168.
[6] Company's Records, Vol. I., p. 168.

the ordering of their own affairs, and the disposing of business in their own town" that the "freeman of every town shall only have power to dispose of their own lands and woods with all the privileges and appurtenances of the said town to grant lots and make such orders as may concern the well ordering of their own towns, not repugnant to the laws and orders as have been established by the General Court, as also to lay mulcts and penalties to the breach of these orders, and to lay and distrain the same not to exceed the sum of 20 shillings also to choose their own particular officers."[1] By this law it will be noticed that none but freemen had any voice in the local government, but in 1647, non-freemen who had taken the oath of fidelity were admitted to a share in the carrying on of the town affairs.[2] With regard to this matter of voting in town meeting, it must be borne in mind, as I have above indicated, that, in the towns founded after the order of 1634, those who had a voice in the conduct of the prudential and other affairs did not necessarily have a voice in the allotment of lands.[3] A little later it was agreed that the order of the court "against the building of dwelling houses above half a mile from the meeting house shall extend to all the towns in this jurisdiction."[4] In 1638 a committee was appointed to report to the next meeting as to a method of granting land,[5] thus showing that the rulers of the colony were anxious that the settlements should not be too much scattered. In the same year every inhabitant of a town was declared liable for his proportion of the town's charges, both in church and commonwealth.[6]

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[1] Company's Records, Vol. I., p. 172.

[2] Company's Records, Vol. II., p. 197; compare *post*, page 37.

[3] Records of the Town of Groton, by S. A. Green, p. 133, *et seq.*; and Melville Egleston as above.

[4] Company's Records, I., 181.

[5] Company's Records, I., 240.

[6] Company's Records, I., 240.

In 1639, Winnaconnet was "allowed" to be a town, with power to chose a constable and other officers, to make orders for the well ordering of the town, to send a deputy to the General Court, and to be called Hampton.[1] This brings us to the founding of Woburn which was as follows.

In 1640[2] news was brought to Charlestown of the conveniency of land thereto adjoining. A petition was sent to the General Court, which was granted in the following terms: "Charlestown was granted their petition, that is two miles at their head line, provided it fall not within the bounds of Lynn village, and that they build within two years."[3] Six men, Edward Johnson among them, were chosen by the Charlestown people to regulate the settling of this new plantation,[4] and they seem to have had little trouble in so doing; for by 1644 the "village" had grown to such an extent that provisions for a regular town government were made; "according to the liberties and privileges granted to the several towns in this jurisdiction." The following are a few extracts from that "Body of Liberties"[5] which very well show the power of a town at that early day: "The freemen of every township shall have power to make such by-laws and constitutions as may concern the welfare of their town, provided that they be not of a criminal, but only of a prudential nature, and that their penalties exceed not 20s. for one offence, and that they be not repugnant to the public laws and orders of the countrie,"[6] etc. "It is the liberty of the freemen to choose such deputies for the General Court,"[7] etc. "The freemen of every town or township, shall have

[1] Company's Records, Vol. I., 259.

[2] Woburn Town Records in Poole's Introduction to Wonder Working Providence.

[3] Company's Records, Vol. I., 290.

[4] Wonder Working Providence, 175.

[5] Mass. Hist. Soc. Coll. XXVIII., 3rd Series, Vol. 8, pp. 216–237.

[6] Ibid., p. 227, sec. 66.

[7] Body of Liberties, as above, p. 227, sec. 68.

full power to choose yearly or for less time out of themselves a convenient number of fit men to order the planting or prudential occasions of that town, according to instructions given them in writing, provided nothing be done by them contrary to the public laws and orders of the country, provided also the number of such SELECT PERSONS be not above nine."[1]

Such was the origin of town government in Massachusetts Bay. Let us now turn over the records and see when the county came into existence. In March, 1635–36, the General Court ordered that there should be four courts kept every quarter at each of the following places: "1, at Ipswich, to which Newberry shall belong; 2, at Salem, to which Saugus shall belong; 3, at New Town, to which Charlestown, Concord, Medford and Watertown shall belong; 4, at Boston, to which Roxbury, Dorchester, Weymouth and Hingham shall belong."[2] These courts, which were to be held by any of the magistrates who happened to dwell near the court town, and by such others as the General Court should choose out of a greater number to be nominated by the several towns, had jurisdiction in all civil causes under £10, and in criminal matters not concerning life, limb or banishment. "All actions shall be tried at that court to which the defendant belongs, and an appeal be laid to the Quarter Court."

In 1636 the military men were divided into three regiments, those of Boston, Dorchester, Roxbury, Weymouth, and Hingham forming one; those of Charlestown, Newtown, Watertown, Concord, and Dedham to be another; and those of Saugus, Salem and Newberry to be the third.[3]

In 1643 the whole colony, which then included all of the present state of New Hampshire that was then settled, was divided into four "*shires:*"[4] Essex, Middlesex, Suffolk and

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[1] Ibid., p. 228, sec. 74.
[2] Company Records, Vol. I., p. 169.
[3] Company's Records, Vol. I., p. 186.
[4] Company's Records, Vol. II., p. 38.

Norfolk. Suffolk included the towns of Boston, Roxbury, Dorchester, Dedham, Weymouth, Hingham, and Nantasket—about the same territory as was included in the jurisdiction of Court No. 4, of 1636, and which formed the first regiment of the same year. Norfolk was composed of Salisbury, Hampton, Haverhill, Exeter, Dover, and Strawberry Bank (Portsmouth). Essex included the territory now known by that name, and Middlesex was composed of the towns above mentioned as belonging to Court No. 3.

At the next session of the General Court the militia was reorganized.[1] In the new arrangement each "town was a company," and the companies of each shire formed a regiment. For every shire a lieutenant was to have been appointed, whose duty it was, so far as I can find, to call out the militia in case of need, and to consult with the governor, the commander in chief, and the sergeant major, who seems to have had the real command of the regiment. As may be seen, it is very difficult to discern in what need the county arose, whether for judicial purposes, as Prof. Washburn[2] maintained, or for a better military organization, as Edward Johnson[3] hinted, or from the need of some such officer as the sheriff.

The other territorial distinctions were plantation, village, township, district, precinct, and parish. Plantation seems to have been used, in the early time, for the whole colony, for a town, or more technically, perhaps, for a community which had not acquired the dignity of a town. Village was used to designate a plantation made by a town as Charlestown Village (Woburn), or Lynn Village (Saugus). Township, at first, meant merely a tract of land granted to persons who intended there to settle a town and gather a church. At a later day it was used almost synonymously with town, thus

[1] Company's Records, II., 42.

[2] Judicial History of Massachusetts, p. 31, Note 1.

[3] Wonder Working Providence, p. 191.

". . . . shall be a township and be called by the name of Attleborough, and shall have and enjoy all such immunities, privileges, and powers as generally *other towns* within this province," etc.

As to the last three of these terms, viz.: district, precinct, and parish, it is impossible to form an intelligent opinion, but Mr. Buck[1] seems to have stated the matter correctly when he wrote: that "our convenient distinction between town and parish was little known, town, precinct, parish and district, were terms indiscriminately used [in 'Province Laws'] for ecclesiastical and civil purposes."

The town, the inhabitants of which belonged to one church, was the political unit in Massachusetts. The way in which the words town and church were used may be seen in the following extract: "Dorchester was the first settled church and town in Massachusetts." So long as the greater number of dwelling houses in the town were within half a mile of the meeting house (used for both civil and ecclesiastical meetings) there was no great hardship in the inhabitants of such a town going to one place of meeting, or having one set of constables, or sending their children to one school. But, when for whatever cause, a settlement had grown up at some distance from the centre of the town, then it often became inconvenient, and sometimes dangerous[2] for many of the inhabitants of a town to go to meeting, and it must be remembered that there was often a fine incurred by not being present at town meeting and worse than a fine by absence from divine worship. In such cases the settlement was erected into a district, precinct or parish. The origin of the word district is to be found either in the system adopted for education, or for purposes of taxation. Precinct was the legal term for the bounds of a constable, and parish was borrowed from the English law. The secular affairs of such a settlement after it had

[1] Ecclesiastical Law, p. 17.

[2] See Judd's Hist. of Hadley on this point.

been set off were carried on by the inhabitants through by-laws passed at precinct, parish or district meetings, apparently without the medium of selectmen. In ecclesiastical matters it formed a distinct parish or church, it being provided: "That in all such towns where there are or shall hereafter be one or more districts or precincts regularly set off, the *remaining part of such town* shall be and ARE hereby deemed, declared and constituted an entire perfect district, *parish* or precinct, and the *first* or principal of said town."[1] This plainly indicates the origin of "First Parish-church," that is the church of the First Parish or the people who worshipped in the old meeting house. When a district or precinct attained sufficient strength it was incorporated as a town.

The Massachusetts town in 1765 was the political unit. Each town sent one or more representatives to the General Court, had its own church organization, its own military company, its own court for petty causes and made by-laws for the carrying on of its prudential and municipal affairs. The representatives to General Court were elected at a special meeting at which the selectmen presided.[2] At these meetings all persons who owned land of the annual value of 40s., or other property to the amount of 10£ had a vote. As to the election of the town officers proper, the following seems to have been the arrangement in 1765.[3] A regular town meeting was held in March of each year, to which all freeholders rated over £20 could come and vote, and, "by the major vote of such assembly, then and there shall choose 3, 5, or 7 persons . . . . inhabiting within said town to be *selectmen* or townsmen and overseers of the poor when other persons shall not be particularly chosen to that office," and also "town clerk, commissioner for assessments," constables, surveyors of highways, tithingmen, fence viewers, clerks of the market, and other ordinary town officers. Besides these routine meetings

[1] Acts and Laws, edition of 1759, page 198.
[2] Ibid., p. 190.
[3] Acts and Laws, ed. 1759, p. 19.

the selectmen upon the written request of ten freeholders of the town were obliged to call a town meeting for the consideration of such business as was mentioned in the request.[1] If the selectmen refused, the constable summoned a town meeting upon the order of a justice of the peace, who, it would seem, was obliged to give the order as a matter of form if requested to do so.[2] At these town or parish meetings order was preserved by a *moderator* elected by those present,[3] and whatever business had been mentioned in the warrant might there be discussed and concluded, and the action of the majority of the qualified freeholders there present was binding upon the town, and upon all the inhabitants thereof.

It seems to have been the custom in the early time and it certainly was the law in 1768, that "the selectmen having instruction in writing from the town may make such necessary rules, orders and by-laws for managing the prudential affairs of the town, not repugnant to Province laws, and to annex penalties not to exceed 20s." "Such orders and by-laws to be binding on being approved by the court of quarter sessions." This reference to the quarter sessions dates as far back as 1692, and probably farther. The delegation of authority to the selectmen, as described above, is a good example of the nature of their office. The town possessed the power to do pretty much as it pleased with regard to its own affairs, and the selectmen, unless their action was overruled, possessed an almost equal amount of authority. In small towns in addition to their regular duties they performed those belonging to the office of town treasurer, overseer of the poor, board of health, assessors, and school committee.[4] As selectmen[5] they presided at meetings for the

[1] Acts and Law, ed. 1759, p. 190.

[2] Ibid., p. 22.

[3] Ibid., p. 189.

[4] Acts and Laws, ed. 1759, p. 19.

[5] For Selectmen's Duty and Power, see Table to Laws of 1660, ed. of 1672, under "Townships;" "County and Town Officer" and "Province Laws;" Laws of 1759, Table under "Select-men."

election of representative, and decided disputes "at *town* or *parish meetings*, about the qualification of voters, before the moderator is chosen," and they also approved of new inhabitants and had many other minor duties.

The officer next in importance was the constable,[1] who was elected at the regular March meetings, and who warned all town meetings when so ordered by the proper authority. In the smaller towns, he acted as tax collector, and as such, if the selectmen neglected to make a rate for the support of the ministers, the constables, upon the order of two justices of the peace (one being of the *quorum*), were obliged to collect the rate and pay it over. As to his regular duties he performed those of the constable and beadle of old England, with the exception that in Massachusetts there seems to have been no provision made for raising the hue and cry, save in the early time.

The surveyor[2] of the highways was chosen at the March meeting. He had charge of "highways, private ways, causeys, and bridges;" and had power to cut down, dig up or remove anything "that incommoded highways," "as also to dig for stone, gravel, clay, marl, sand or earth in any land not planted or enclosed, and to *press* carriages, workmen or other things fit to be employed in highways." As to the labor necessary, "surveyors shall appoint the days, provide materials for working on the highways according to the season of the year and weather and give public notice thereof; and all persons from sixteen years old and upward, by themselves or others in their stead shall attend; or with cart and team, as they shall be appointed," etc.[3]

The overseers of the poor, assessors and collectors of taxes performed the duties usual to such officers, with the excep-

[1] Comp. authorities above cited under "constable" with Duke's Laws in the first Vol. of the Coll. of N. Y. Hist. Soc.

[2] U. S. under Highways and Surveyors.

[3] Comp. p. 20 *et seq.*, for the English custom, and p. 45 *et seq.*, for the Virginia custom.

tion of the collector who seems to have had power to seize upon the persons of delinquent tax payers and to commit such to prison without any further warrant.

The town clerk was the counterpart of the vestry clerk of old England, in that he was the recorder of all town votes, grants, etc., and also the orders of the selectmen. In addition, however, he acted as registrar of births, marriages, deaths, etc.; granted replevins, summonses, attachments for matters triable before a single justice, and summonses for witnesses not only to such trials, but also in civil causes "at the superior and inferior courts."

Fenceviewers were to take care that fences were four feet high, of reasonable strength, and in a good state of repair; and they had considerable authority as to the carrying into execution of their orders. The hayward in England was the watcher of bounds, but his office in Massachusetts, resembled that of the impounder and common driver more than it did that of the hedge warden of the mother country. The tithingmen and wardens of Massachusetts performed certain duties which in old England were attached to the offices of churchwardens and synodsmen. They saw to the observance of the laws against cruelty to animals, tippling and selling strong drink without license, and in general to the "observation of the laws against drunkenness, prophaness and other immoralities." They were required to inform of breaches of the laws, and in fact of anything that seemed to be against the ideas of morality and decency that then prevailed. Before 1756–57,[1] the jurors for both the grand and petty juries were elected at town meetings, but after that time a system of drawing by lot,[2] very like that now in vogue, was adopted.

The old county court disappeared with the colonial charter, and in its place appeared two courts, one for civil causes,

[1] Province Laws, III., 474.
[2] Province Laws, III., 995.

called the Inferior Court of Common Pleas, which was held by four justices appointed for the purpose; and one for criminal offences called the Quarter Session of the Peace, presided over by the justices of the peace for the county, each of whom had power within his county to determine civil causes under 40s.[1]

In 1697, the name Quarter Sessions was changed to General Sessions; and as the Court of Common Pleas seems never to have been held in much esteem by the people, the General Sessions took the place of the old County Court in the political organization. This court decided what highways were *advisable* and appointed a committee of freeholders to decide upon the *necessity* or *convenience* of the same; if their decision was favorable, the sheriff summoned a jury to *lay out* the highway and to assess and decide *all questions* of "*dammages.*" In later times five freeholders were appointed to lay out the highway, the jury merely estimating the damages. After the way was laid out each town built and kept in repair such portions as lay within the town limits. The Court of General Sessions granted licenses to innholders, liquor sellers, and keepers of coffee houses. It licensed the erection of fish wears, approved town by-laws, and in certain cases saw to the relief of the poor.

The justices in each year decided what sums of money were necessary to defray these and other county charges and the amount so determined was apportioned among the several towns according to the rate of the Province levy. The selectmen, or assessors if there were any, assessed the levy and it was collected as were the town taxes. The Court of General Sessions seems to have had the absolute disposal of the sums so raised.

The ministerial officer of the county was the sheriff. He was appointed by the governor, had custody of the county jail, served precepts on selectmen in the matter of the choice

[1] Province Laws, I., 72–248, 283 and 368.

of representatives, had certain duties in the collection of the county tax, and, in general, performed the duties which belonged to the office of sheriff. Such was the local government of Massachusetts in 1765.

## Local Government in Virginia.

In 1769, the local government of Virginia was based upon the county, the parish and the precinct. With the exception of the last of these divisions, size had little to do with their name, for some counties contained many parishes, while on the other hand some parishes comprised more than one county.[1] As to the origin of these divisions, there is little known beyond the bare facts to be given in the next few pages, but in all probability there was less system in the planting of Virginia than there was in the settlement of New England. While in some parts of the colony a newly settled portion became a county and parish at one and the same time, in other regions the hostility of the natives, or some other reason, made it convenient for every little settlement or plantation to have its own house of worship. Thus it came about that in the early days plantation, congregation, hundred, parish, and city were nearly synonymous terms.[2]

To the first General Assembly (1619) there came burgesses from "James City," "Captain Ward's Plantation," and nine other places;[3] but according to "The list of the living on February 16, 1623,"[4] the colony then contained twenty-four

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[1] Jefferson's Notes, 148, ed. Boston, 1802. As to the sizes of parishes "the incumbent of the parish [Bristol] reported to the Bishop of London in 1724, that his cure was 40 miles long and 25 miles wide." Slaughter's History of Bristol Parish, p. XVI. and 9. Bristol parish at one time appears to have contained five churches and two chapels.

[2] Meade, Vol. I., p. 238 and 239.

[3] Colonial Records of Va., Richmond, 1874, p. 9; Neill, 139. In Rolfe's Relation, Neill, 107, are the names of the places settled in 1616. See also Hamor's True Discourse, p. 31–32, ed. of 1860.

[4] Colonial Records of Va., p. 37.

settlements, the names of which do not correspond with those given in "a list of those who perished in the massacre of 1622.[1] In 1629, according to a list of the burgesses elected to the Assembly[2] of that year, twenty-four places or plantations enjoyed the right of representation in that body; but before the next Assembly (1631 O. S.), the plantations were consolidated, and to it came burgesses from only thirteen places. This list[3] of 1631 is important because it is the first in which we find the word parish—"Waters Creek and the upper parrish of Elizabeth City." This is not, however, the first time that the word parish occurs in the records, because, as far back as 1623, we find it in "Hening," and the word churchwarden is in the "Laws of 1621;"[4] but this, of itself, does not necessarily imply that there were parishes organized at that time. Indeed, as late as 1627, we read of the "Minister and churchwardens of 'Stanley Hundred;'"[5] and, therefore, as this return of a burgess from the Upper Parish of Elizabeth City is the first mention of the parish as a living organization, we may date its appearance in official documents at 1631.[6] Now, what was the early history of the county?

In 1618, the Governor and Council had been ordered to divide the colony into counties,[7] but there is no reason to suppose that they did so; for, five years later, among the "First Laws," so-called, is the following: "that they shall be courts [of record] kept once a month in the corporation of Charles City and Elizabeth City, . . . . that the commanders of the places and such others as the governor and

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[1] Neill, p. 339.

[2] Hening, Vol. I., p. 138.

[3] Hening, Vol. I., p. 153.

[4] Hening, Vol. I., p. 122; Ibid., p. 125, contain something of interest in the history of religion in the colony.

[5] Hening, Vol. I., p. 145, note.

[6] A list of the parishes in 1680, is in the Colonial Records of Va., p. 103.

[7] In Hening, I., p. 115, the words are "Cities, boroughs, etc.," but the Rev. P. Slaughter gives the words as in the text, with the exception of the word "ordered," in his History of Bristol Parish, 2d ed., p. 4.

council shall appoint by commission shall be the judges, with reservation of appeal after sentence to the governor and council . . . . The commanders to be of the *quorum* and sentence to be given by the major parties."[1] In 1628–9, the words[2] "Monthly Courts" occur and they appear again in 1631–32.[3] At last in 1634, we come upon the following: "Roll, No. 11, 1634. Pa. 174—Sheriffs appointed for the several counties:"[4] and in that year the colony was divided into eight shires which were to be governed like the English shires, with "lieutenants" and sheriffs and "*sergeants* and *bailiffs* where need requires." The commissioner of the Monthly Court was to have cognizance of 10£ instead of 5£ causes, and one of the council was to sit with him. The date of the county then is 1634. In 1642, there were ten counties, and among the laws enacted that year is the following: "that the said monthly courts be reduced to six yearly, . . . . and instead of monthly courts to be called countie courts, and the commissioners to be styled Commissioners of the Countie Courts."[5] These officers were called justices of the peace in 1661, when the monthly sittings of the courts were resumed.[6]

The county was a territorial division, the inhabitants of which belonged to one body of militia, commanded by a county lieutenant; and between whom justice was administered by eight or more gentlemen, sitting as a county court.

The county lieutenant, who corresponded to the Lord Lieutenant of England, was always one of the most important men of the county, and received his appointment from the governor and council. He commanded the militia of the county, and

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[1] Hening, Vol. I., p. 125.

[2] Hening, Vol. I., p. 133.

[3] Hening, Vol. I., pp. 163 and 168.

[4] Hening, Vol. I., pp. 223, 224. There is a hiatus from this entry to 1642, except an entry under date of 1639.

[5] The assembly at this sitting made what amounted to a codification of the laws; Hening, Vol. I., pp. 239, *et seq.*

[6] Hening, II. 69; Present State, p. 43.

had authority to "list all male persons above the age of eighteen years . . . . under the command of such captains as he shall think fit." He could order private drills whenever he pleased, and was obliged to hold a general muster four times a year. He presided at court-martials, and had considerable dictatorial power in time of war.

In 1769 the county court was held monthly at places ascertained by law. It consisted of eight or more gentlemen, inhabitants of the county, commissioned by the governor,[1] and called justices of the peace, four of whom, one being of the "*quorum*," constituted a court. These courts had cognizance[2] "of all causes whatsoever at the Common Law or in Chancery within their respective jurisdictions, provided the amount in dispute was over 25 shillings and that the penalty for the alleged crime was not loss of life or member, or outlawry."[3] Matters under 25 shillings were determined by a single justice, while all greater crimes were adjudicated by the Governor and council in what was called the *General Court.* Besides its judicial functions the county court had authority[4] to erect and keep in repair the County Court House. It had sole charge of highways, (causeys), bridges, "*churchroads*," etc., could contract for the construction of a bridge or road, and, if no contract was made, procured labor as follows: the whole county was divided into precincts or "walks" of a suitable size, in each of which a "surveyor"[5] was appointed. The court decided when the work should be done, and at that time every tithable[6] male was required to labor under the direction of the surveyor, who seems to have been a mere foreman; the only exemption from this service was, that any person who owned two or more tithable slaves was not com-

[1] Hening, V. 489. See Beverly, 203, who says Governor and Council.
[2] For the jurisdiction of this court in early times see Hening, Vol. I., p. 163.
[3] Hening, V. 491.
[4] Hening, V., p. 507.
[5] Beverley, ed. of 1722, p. 208; Hening, II. 103, for Act of 1661.
[6] For tithable, see p. 50.

pelled to serve in person, but, nevertheless, was required to send such slaves.[1]

The county court could clear rivers of obstructions, and had certain powers with regard to water mills. It ordered the processioning of the parishes, licensed taverns,[2] recommended inspectors of tobacco, designated places for tobacco warehouses and "landings," and probably appointed constables. Each year the court presented the names of three of its members to the governor, who appointed one, generally the senior justice, to be sheriff of the county for the ensuing year.

The sheriff was the ministerial officer of the county court, and as such performed the duties belonging to that office as they are described in Dalton's *Officium Vice Comitum*, (a copy of which was ordered to be purchased in 1666), so far as such description was applicable to Virginia.[3] Besides these duties he collected the "quit rents," the public and county levies, and usually the parish levy. He held the election for burgesses and summoned both grand and petty juries for the county and General Courts.[4] Trial by jury seems to have been given the colony by the "Company" in 1621, and to have been confirmed by the Act of 1642; but beyond the mere mention of them and their qualifications I have found nothing concerning the petty juries at the county court. The juries which tried the capital offences at General Court (session of oyer and terminer) were summoned from the county in which the crime was alleged to have been committed, but if the accused challenged any of these, their places were filled from the bystanders.[5]

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[1] It is interesting here to note that according to the law of 1657, the county court, in laying out roads, etc., was to pay regard to the "course used in England," Hening, I., 436.

[2] Hening, I., 411.

[3] Hening, Vol. II., p. 246. See also Act of 1748—Hening, V., 515, 552. "Laws" of 1754 and "Laws" of 1769.

[4] See Hening, V., 525, 526; and Laws in Force in 1769, p. 189. Also Laws of 1728, p. 275.

[5] The Acts of Assembly now in Force, Williamsburg, 1769, p. 200, (cited here as Laws in Force, 1769.

So that the jury of the vicinage, in our sense of the term, can scarcely be said to have existed in the Old Dominion. The sheriff seems to have been assisted by an officer called the Constable.

According to Beverley[1] "Constables are appointed, relieved and altered annually by the county courts as they see occasion, and such bounds are given them as those courts think most convenient.[2] These "bounds" were called precincts, but I have been unable to find either in "Hening" or in any of the numerous collections of the laws of Virginia, anything confirmatory or otherwise of this description from Beverley. The Constable, besides having co-ordinate authority with the sheriff, in many cases, had considerable authority of his own. He collected fines for small offences, whipped criminals who could not pay, arrested violators of the revenue laws, and accompanied those who searched suspected places for smuggled goods or the houses of papists for arms, horses, etc., and he had sole charge of runaways whether sailors, servants or slaves. In addition he had the duty peculiar to Virginia of making "perambulations"—so-called—to view tobacco fields, and to destroy inferior growths as "suckers" and "seconds." He executed the game laws and, as part of this duty, he visited in his "perambulations" the negro quarters, and killed any dogs above the number of two there found. He had other minor duties as will appear by the following table of fees:[3]

| | Pounds of tobacco |
|---|---|
| "For serving a warrant - - - - | 10 |
| " summoning a witness - - - - | 5 |
| " " a coroner's jury and witnesses - | 50 |
| " putting into stocks - - - - | 10 |
| For whipping a servant or slave - - - | 10 |
| For removing any person suspected to become chargeable to the parish; to be paid by the parish for every mile going and returning - - - | 2." |

[1] Ed. of 1722, p. 215.
[2] Ibid., p. 208.
[3] Hening, V., p. 340.

This compensation was further increased by one pound of tobacco out of the county levy for each "tithable" in his precinct, and, besides, he received many fees not above enumerated, and was exempt from jury service and from the payment of taxes while in office. If we should suppose that the precincts of the constable and surveyor corresponded in extent to the parish, and that the parish and county were—as in many instances was the case—the same, we should have all the duties performed by a New England town under one government.

The parish was, as a rule, a division of the county for religious purposes; but the governing body of the parish, the vestry, had considerable authority in civil affairs. The first mention of vestry in "Hening"[1] is in 1642-3; namely, "That there be a vestry held in each parish for the making of the levies and assessments for such uses as are requisite and necessary for the repairing of the churches," etc. And that there be yearly chosen two or more churchwardens in every parish. "That the most sufficient and selected men be chosen and joined to the minister and churchwardens to be of that vestry." This law was probably a mere codification of the existing usage, for it will be remembered that churchwardens are mentioned in the "Laws of 1623," and the vestry meant in this act was probably an *open* vestry or, perhaps, a "*committee of assistance*" as above described, for according to a law[2] passed in February, 1644–5, the election of the vestry was in the power of the major part of the parishioners.

But in 1661–62, it was enacted that: "In case of the death of any vestry man, or his departure out of the parish, that the

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[1] Hening, Vol. I., p. 240.

[2] Hening, Vol. I., p. 290. See also for the early vestry, "Present State," by Hartwell, Blair and Chilton. Lond., 1727. See also Act of 1660–61, Hening, II., 25.

said minister and vestry make choice of another to supply his room;"[1] and this was law in 1769.[2]

The Virginia vestry held a very unique place in the local system, for, besides electing churchwardens, presenting ministers to the governor for induction, providing glebes, "parson houses," and salaries, the vestry had, together with the churchwardens, charge of the poor, the processioning of the parish bounds,[3] counting tobacco, and many minor duties.

In the Old Dominion there were neither patrons nor bishops. The governor took the place of the "Ordinary;" the county court, of the "Visitation," and the vestry of the patron. The vestry hired the minister by the year, and for this reason, and because of low salaries and onerous conditions attached to the holding of the cure, it was very difficult to get men of ability to stay in the colony for any length of time. The churchwardens made their presentments to the county court, not, however, to the prejudice of the grand jury, which, indeed, often presented the same offences.

There were no overseers of the poor in Virginia, their duties being performed by the vestry and churchwardens. In early times the poor were distributed among the planters of the parish, but in later days a system of workhouses was introduced which is said to have been profitable to the community.

For the better levying[4] and collecting funds for county and parochial needs, each county was divided into a suitable

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[1] For the duties of the vestry, see Meade, I., 364; 394, 395; Slaughter's Bristol Parish, XIV.–XIX.; Hening, Vol. I., p. 433, for the act of 1657; History of Augusta County, p. 97; Vestry Book of Henrico Parish, 1730–1773, edited by R. A. Brock, in Wynne's Historical Documents from the Old Dominion.

[2] Laws in Force in 1769, p. 2, and Hening, II., 44.

[3] Slaughter, Bristol Parish, p. XVIII. and 11.

[4] The first levy is described in Hening, I., 143. The law of 1646 is in Hening, Vol. I., p. 329. See also Ib., 342 and 354; Beverley, edition of 1722, pp. 218–219; Present State, p. 53. See for law of 1660, Hening, II., 19.

number of precincts. To each precinct a justice was detailed to whom, on the first day of June in each year, every "head of a family" was to bring in a list of all the persons in his family (including servants and slaves) over the age of sixteen—white women alone excepted—each and every person so reported was a "TITHABLE."

In order to lay the parish levy,[1] the vestry of each parish met in December of each year, and made a computation of the parish debts. The sum thus ascertained was divided by the number of "tithables" in the parish, and the quotient was what each tithable had to pay to the parish. The head of a family paid the amount due from the members of his family, which included his servants and slaves, to the collector, who liquidated the parish debts.

The county levy[2] was laid in the same manner and usually collected by the same officer. If we may believe the author of an article on Truro parish in "Scribner's,"[3] the affairs of the parish were transacted in a business-like way. I have been unable to find a county levy, but the following parish levy will be of interest:

"At the meeting of the 22d of August, 1748, the vestry proceeded to lay the parish levy as follows:[4]

| Augusta Parish. Dr. | |
|---|---|
| To the Rev. John Hindman 16,000 lbs. tobacco at 3 farthings per pound without any deduction | £50. 0. 0 |
| To $^{10}/_{00}$ on ditto for collection - - - | 5. 0. 0 |
| To Mr. Hindman for board - - - | 20. 0. 0 |
| To Sam Says per agreement with churchwardens | 1. 4. 0 |
| To James Portees - - - - | 2. 5. 0 |
| To Robert McClenachan, per acct. - - | 4. 15. 7 |
| To Daniel Harrison, per acct. - - - | 10. 0 |
| To John Madison, clerk - - - | 8. 0. 0 |
| | £91. 14. 7 |

[1] Beverley and "Present State," as above.

[2] Beverley, 218; "Present State," 53.

[3] Scribner's, XI., 629.

[4] History of Augusta County, p. 99. This is an exact copy of the account there given.

| | |
|---|---|
| The Parish. Dr. | |
| To the above creditors - - - - | £91. 14. 7 |
| " deposit in collector's hands - - - | 50. 6. 5 |
| | 142. 1. 0 |
| Per contra. Creditor. | |
| To 1,421 tithable at 2s. per pole - - | 142. 1. 0." |

Shortly after this John Madison was turned out, as he "was not very strict in his accounts."

Another duty of the vestry was the processioning of the bounds of every person's land, which is described as follows.[1] Every fourth year upon the order of the county court, the vestry divided the parish into precincts of convenient size, and appointed "two intelligent, honest freeholders of each precinct," to see that such processioning was performed, "and who should take and return to the vestry an account of every person's land they shall procession and of the persons present at the same time and what lands," etc. These reports were registered by the parish clerk, and this, which corresponded in part to the perambulations of England, was the only method of recording land-titles in Virginia before the Revolution.

The churchwardens were the executive officers of the parish. They were two in number, and were elected yearly by the vestry from among its own number. In speaking of the vestry, I have sufficiently described the office of churchwardens. It only remains to be added that they had the duty peculiar to Virginia, of arresting and selling negroes "unwarrantably" set free.

To sum up, in a county which contained but one parish the local government was in the hands of eight men, appointed by the governor, who administered justice; of twelve men, except in the early days, elected by their predecessors, (a close corporation), who took care of the poor and had charge of all

[1] Laws in Force in 1769, p. 153. Slaughter's Bristol Parish, p. XVIII.

matters pertaining to religion; and of one man appointed by the governor, who was the head of the military. The two boards first named had power to raise and expend whatever sums of money they saw fit, and, as there was nothing to prevent a man from being at one and the same time county lieutenant, justice of the peace, and vestryman, it might very well happen that all local authority would be centered in the hands of twelve persons, none of whom were elected by the people. In fact, the poor white, except once in a while when he cast a vote for burgess, had no more share in the government than the blackest negro, and, therefore, when the conditions under which this system had grown and flourished were changed, there was no large body of men trained to habits of local self-government as in New England.

The far seeing men of the colony had attempted to counteract the forces which produced this result, as the following extracts show: "December, 1662. Whereas oftentimes some small inconveniences happen in the respective counties and parishes which cannot well be concluded in a general law, Be it therefore enacted, that the respective counties and the several parishes in those counties shall have liberty to make laws for themselves, and those that are so constituted by the major part of the said counties or parishes to be binding upon them as fully as any other act."[1]

In 1676 an attempt was made to have the parish levies laid by the "vestry and six sober, discreet housekeepers or freeholders,"[2] who should sit with them and who were to have been elected by the freeholders of the parish. This was not taken advantage of by those whom it was supposed to benefit. Neither did the act above quoted work well, for in 1679 it was declared that the former act was too general, and it was therefore enacted that for the future "two men shall be elected by the parishioners of each parish, who should sit in the

[1] Hening, II., p. 171.
[2] Hening, II., 396.

county court and have equal votes with the several justices in the making by-laws."[1] But this scheme appears to have worked no better.

In 1655–56 it was attempted to make the parish the basis of representation in the assembly, every freeman to have a vote.[2] In 1699 this last was changed to freeholder, and in 1705 the county was again made the basis of representation. But these laws were not taken advantage of, partly no doubt on account of the extra expense involved, and partly because the genius of the country pointed in another direction. Such was local government in Virginia in 1769.

## Conclusion.

Whoever has followed me thus far must have been impressed with the fact that town and county government in the English colonies were not so unlike as is commonly supposed; that they were *both* the survival of the English common law parish of 1600; and that the difference, such as it is, in these forms may be traced to the causes above described.

The constitutional history of Massachusetts and Virginia before their settlement is one history—the continuous history of the English people. Both colonies were founded by commercial companies. New England's plantation and Bermuda Hundreds were very similar; while Captain Ward's "particular plantation" in Virginia was a good example of what Matthew Cradock's farm and "park" were to have become in Massachusetts. The Virginia Company lost its charter and the colony became a royal province, while the government of the colony planted by the Company of Massachusetts Bay, owing to the removal of the charter to America,

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[1] Hening, II., p. 441.

[2] Lynnhaven parish was given the right to choose burgesses in 1642; Hening, I., 2. See also Hening, Vol. I., p. 277; Ib., p. 421. Ib., Vol. I., pp. 469, 476, for Acts of 1657–8.

became, at least so far as the freemen of the corporation were concerned, almost democratic. And this was perfectly natural, for, while Virginia was settled on account of the wealth to be gained from a successful cultivation of her soil, the early colonists of Massachusetts were men and women to whom wealth, except as an accompaniment of a pure and decent life, was no recommendation. It was to attain that purity of social life that they left comfortable homes in England to subdue the wilderness of the New World. Consequently, while the plantations of Virginia became more and more dispersed, those of Massachusetts grew up side by side, each little collection of plantations forming a town. Then an ecclesiastical organization, in each case congenial to the respective social conditions was introduced; and lastly, a mode of land distribution most favorable to the successful carrying out of the objects for which the respective colonies were founded was devised for each colony.

In the Old Dominion and in Massachusetts the county was the offspring of the "city" (Va.) and plantation. In the northern colony the town, which was but the successor of the plantation, remained as the basis of the social organization; while in the southern colony the municipal division entirely disappeared and the parish filled the vacancy as well as it could.

The English parish was "*locus quo populus alicujus ecclesiæ degit;*" or the "multitude of neighbors pertaining to one church;"[1] and, if we were in want of a definition of an early Virginia parish or an early New England town, no words could be found to better express the *thing*.[2]

The "assistance" of the parish, by English common law became in time the select vestry of the England and Virginia of the last century; while in Massachusetts the "survival"

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[1] Minsheu, Guide into the Tongues, p. 348.

[2] Note especially the use of the word "body" in the early records of Dorchester and other New England towns.

of the "assistance"—the "select persons" (five men, ten men, townsmen, or selectmen)—was never permitted to turn into a close corporation and become permanent. This is the point, for the select men of New England, *while in office*, possessed very nearly the power the select vestry exercised. Various institutional analogies will be clearly seen in the following tabulated statement of the powers of the local organization in

| (1) England. | (2) Massachusetts. | (3) Virginia. |
|---|---|---|
| *Parish* or *Town.* | *Town.* | *Parish.* |
| | Powers exercised in | |
| *Parish Meeting.* | *Town Meeting.* | *Vestry Meeting.* |
| | By | |
| *Parishioners.* | *Inhabitants* thro' By-Laws or certain officers. | *Vestrymen.* |
| *Assistance* and *Churchwardens.* | *Selectmen* and *Ruling Elders.* | *Vestry* and *Churchwardens.* |

The powers thus exercised were, in ecclesiastical matters, exercised as follows:

| | | |
|---|---|---|
| | Ministers appointed by | |
| *Patron.* | *Congregation* (*Town*). | *Vestry.* |
| | And paid by | |
| *Tithes, etc.* | *Congregation* (*Town*). | *Vestry.* |

The goods used in the conduct of divine service being in the hands of

| | | |
|---|---|---|
| *Churchwardens* (responsible to *Parish*). | *Congregation* (*Town*). | *Churchwardens* (responsible to *Vestry*). |

Necessary Money raised by

| *Parish* (*Church Rate*). | *Town.* | *Vestry.* |
|---|---|---|

In Military Organization the basis was the

| *Parish.* | *Town.* | *County.* |
|---|---|---|

The charge of the Poor was in hands of the

| *Parish.* | *Town.* | *Vestry.* |
|---|---|---|

Which exercised this duty through the

| *Overseers of the Poor.* (*Churchwardens, ex-officio,* being two.) | *Overseers of the Poor,* (if none were elected, the *Selectmen*). | *Churchwardens* and *Vestry.* |
|---|---|---|

The funds required for the Poor were raised by

| *Parish.* | *Town.* | *Vestry.* |
|---|---|---|

The Highways were laid out by authority of

| *County.* | *County Court* (in first instance, actually by 5 *Freeholders*). | *County Court.* |
|---|---|---|

Highways were built by

| *Parish.* | *Town.* | *County.* |
|---|---|---|

Every male over a certain age was required to work, under the supervision of a Surveyor, chosen by the

| *Parish.* | *Town.* | *County Court.* |
|---|---|---|

The Police Officer was the Constable elected in the

| *Leet* (or otherwise). | *Town Meeting.* | *County Court.* |
|---|---|---|

Funds for purely local needs were voted by

| *Parish.* (Parish Meeting). | *Town.* (Town Meeting). | *Vestry.* (Vestry Meeting). |
|---|---|---|

"Inhabitants" were admitted or refused by

| *Parish.* | *Town* (in Town Meeting *or* thro' the *Selectmen*). | *Vestry.* |
|---|---|---|

Thus we might go on to the end of the list. With the exception of the charge of the building and repairing of the highways, we may say with truth that the local government of Virginia was in the hands of a body of men originally chosen by the people, but which, in course of time, hardened into a close corporation; while in Massachusetts the control of local affairs was in the hands of the people, whose agents were the selectmen. And it is possible, therefore, to apply to her institutions the words of Sir Thomas Erskine May used in describing the England of bygone days: "Thousands of small communities there enjoyed the privilege of self-government, taxing themselves through their representatives, for local objects: meeting for discussion and business; and animated by local rivalries and ambitions." It is as true of Virginia as it is of England, that "this popular principle [the right to meet in parish meeting, etc.] gradually fell into disuse; and a few inhabitants,—self-elected and irresponsible,—claimed the right of imposing taxes, administering the parochial funds, and exercising all local authority. This usurpation, long acquiesced in, grew into a custom . . . . The people had forfeited their rights and select vestries ruled in their behalf."

XI

# RUDIMENTARY SOCIETY

## AMONG BOYS

"Human nature is generally akin: . . . . and the motives of an adult barbarian are very similar to those of a civilized child."—*Francis Galton.*

"Persons who stand up for the dignity of philosophy, if any such there still are, will say I ought not to mention this, because it seems trivial; but the more modest spirit of modern thought plainly teaches, if it teaches anything, the cardinal value of occasional little facts."—*Walter Bagehot.*

JOHNS HOPKINS UNIVERSITY STUDIES
IN
HISTORICAL AND POLITICAL SCIENCE

HERBERT B. ADAMS, Editor

History is past Politics and Politics present History — *Freeman*

SECOND SERIES

XI

# RUDIMENTARY SOCIETY

# AMONG BOYS

BY JOHN JOHNSON, JR., A. B.

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# EDITORIAL INTRODUCTION.

When the publication of the Johns Hopkins University Studies began, it was not anticipated by the editor that any contributor would descend lower in the scale of institutional subjects than Towns, Parishes, Manors, etc. But Mr. John Johnson, jr., after contributing to the First Series a valuable paper on "Old Maryland Manors," which was noticed by Sir Henry Maine and by the *Saturday Review*, June 30, 1883, yielded to the influence of a teacher's environment, upon a farm-school for boys, and began to study the agrarian customs and institutional instincts of rudimentary citizens of our larger republic. At first sight, such a study of juvenile society may appear boyish and somewhat trivial, but a nearer view of the customs and institutions of the McDonogh Boys will convince the reader that they are worthy of scientific observation. So curiously picturesque, however, is the life of this juvenile society that some readers may suspect Mr. Johnson of having written a kind of political romance with a socialistic moral. But his statements are all matters of the strictest fact, recorded with the conscientiousness and painstaking fidelity of a local historian. Modern students are finding historical and sociological materials in such imaginative writings as Plato's Republic, More's Utopia and Bacon's Nova Atlantis, but there are few scholars who have thought it worth while to utilize the wealth of fact and illustration for institutional history which lies at our very doors. Mr. Johnson has perhaps taken the initiative in a new and most interesting field, "Rudimentary Society among Boys." A preliminary study upon this general subject was first published by him in the *Overland Monthly* for October, 1883, and received an appreciative notice from an American psychologist in the Notes of *The Nation*, January 17, 1884. An article on "Judicial Procedure among Boys" was also published

in the *Overland Monthly*, for July, 1884. Mr. Johnson's work, originally prepared for this University Series, has now been entirely recast and is presented in the present number of the Studies, with the hope that it may suggest similar investigations elsewhere.

The editor begs leave to call attention to the sociological and institutional significance of this monograph. Upon an Old Maryland Plantation, itself connected historically with that system of manorial land tenure which supplanted primitive democracy and ancient land community, a Plantation once the home of slaves and tenants, who did the bidding of their lord and master, and who now lie buried in the lord's waste land, a fresh and juvenile society has now sprung into being. Although still under the authority of a master—the principal of McDonogh School,—the boys have reverted to a kind of primitive democracy, and are passing through much the same cycle of agrarian history as that through which branches of the great Aryan race have passed again and again. First came a system of land community among those fifty boys inhabiting the eight hundred acres, remnant of that Old Plantation of three thousand acres, a part of which was purchased for the Institute of John McDonogh, who is now worshipped as the eponymous hero of the McDonogh clan of small boys. He is the tutelary founder of that school-boy micropolis. While the principle of patriarchal sovereignty endures in the headship of the school, the boys still represent in many respects the survival of primitive democracy. And yet chiefs, or elders, arose from time to time among the McDonogh Boys and arrogated to themselves by reason of their superior strength, age, or ability, the control of the public land for hunting and fishing, for rabbit-trapping, and bird-nesting. Primitive democracy is now in danger of that subversion, which has been the unhappy lot of the small farmers of England. But now comes a socialistic party once more demanding, so to speak, the *communisation* of land. The land-holding aristocracy yield very slowly and urge the commoners to accept certain distant, as it were colonial, tracts of land for squirrel-hunting and rabbit-trapping. Here, in miniature, is the agrarian history of the English race of hunters, trappers, and enterprising colonists; nay, it is the agrarian history of our Aryan race. Mr. Johnson, in his picture of McDonogh

Institute, has shown us a microcosm, not only of the agrarian, but of the political and economic history of society.

Boys from the age of youth to adolescence repeat the history of their ancestors and of the race itself. As in the changes of the egg, every embryologist recognizes certain rudimentary features of structure which disappear before birth, so the sociologist and student of human institutions may discover in a company of lads not only the rudiments of primitive society, but the germs of its development. Every school-boy and college-student in his upward way to real manhood represents the evolution of a primitive savage into a civilized being. Every school and college reproduces the developmental process of human society in some of its most interesting aspects, such as government and law. There are all stages of social development in the student-class, from actual savagery, which frequently crops out in the very best schools and colleges, to effeminate forms of modern civilization. There are all degrees of institutional government, from total anarchy and patriarchal despotism to Roman imperialism and constitutional government; although it must be admitted that self-government among the student-class—said to obtain in some American schools and colleges—is not yet a chartered right. The regulation of student-society by itself, or by the powers that be, presents all phases of judicature, from the most savage ordeals to the most humane. Student-customs are full of ancient survivals, and some editions of "College Laws" are almost as archaic as the Code of Manu. One of these days we shall perhaps find men investigating college jurisprudence, college government, and college politics from the comparative point of view, and writing the natural history of the student-class.

The school and college world is still unexplored by scientific discoverers; yet how fruitful is the field here offered to the sociologist and the student of comparative politics! Why should not our college graduates interest themselves in the history of student institutions? While at college we grappled in public on the stage with such great questions as the Spirit of English Liberty, the Fallacies of Herbert Spencer, and the Advantages of Free Trade; what is the harm in undertaking a little graduate work of a more microscopic character? Sir John Lubbock, not content with writing in early life concerning Pre-historic Times

and the Early history of Civilization, has more lately studied such a comparatively insignificant theme as the habits and instincts of "Ants." Charles Darwin devoted a considerable part of his life to the Study of "Earth Worms;" and the germ of his epoch-making theory may be found in his study of the birds and reptiles of the Galapagos Islands. Scientific men the world over, from the laboratory of Dohrn at Naples to that of Mitsukuri in the University of Tokio, are pursuing the most minute objects of investigation. The infinitely little may be as wonderful as the infinitely great; for universal truth may appear in atoms as well as in systems of worlds. "After such great matters as religion and politics," said Bagehot, "it may seem trifling to illustrate the subject ['Nation-Making'] from little boys. But it is not trifling. The bane of Philosophy is pomposity: people will not see that small things are the miniatures of greater, and it seems a loss of abstract dignity to freshen their minds by object lessons from what they know," (Physics and Politics).

The world already possesses a pretty large stock of great principles, and it now needs fresh collections of fact in order to prove all things and hold fast that which is good. Aristotle long ago said that "the right method of investigating anything is to reduce it to its elements" (Pol. I. cap. 3). He began his great treatise on Politics with a discussion of the primary elements of the State, the family in its elementary parts; the village community composed of a group of householders; and the city or commonwealth formed by an association of villages. From such elements as these, not only political science, but practical politics must be perpetually reconstructed. The Reverend Samuel W. Dike has lately emphasized, in the *Princeton Review* (March, 1884), and elsewhere, the significant idea that the Family, oldest of institutions, perpetually reproduces the ethical history of man, and continually reconstructs the constitution of society. All students of sociology should grasp the same radical truth, and should also remember that school and college, town and city, state and nation, are after all but modified types of family-institutions, and that a study of the individual elements of social and political life is a true method of advancing sociology and politics in general.

JOHNS HOPKINS UNIVERSITY,
*November* 1, 1884.

# RUDIMENTARY SOCIETY AMONG BOYS.

## 1. Land Tenure.

At the top of one of the low, fertile hills that cover much of the country to the north and west of Baltimore, stands the McDonogh School. Around it stretch the eight hundred acres of the school farm. As the visitor stands upon the northern portico of the principal's house and looks out over the fields of corn, wheat, and clover, whose ample breadths fall gradually away toward the water course below, his eyes find relief from the glancing, undulating light of the hot, open ground in the dark, quiet, yet various green of the woods that crown the summer hills. On the high eminence far to the north-east stands the Garrison Forest church, whose foundation goes back to the first half of the last century, when the Reverend Benedict Bourdillon suggested the building of a "chapel of ease for the accommodation of the forest inhabitants." A few miles to the eastward is the small stone fort, with its loop-holes for muskets, which was garrisoned by Captain John Risteau, High Sheriff of the County, when the raids of the fierce Susquehannoughs kept the border in fear. From this building the region takes the first part of its name of Garrison Forest. The latter portion is accounted for by the great abundance of woodland yet uncleared, which is only a remnant of the unbroken expanse of trees that a hundred and forty years ago gave the surrounding district the name of the Forest.

To the south of the school, through a heavily wooded valley, flows the stream called the Horsehead, once famous for its trout, but now unfrequented by the fish by reason of the cultivation of the land along its upper tributaries. But though its former reputation has departed, the "Forest" still grows along its banks, from which not all the game has yet been driven. The Elkridge hounds can still find a fox there as they hunt across country; flights of pigeons still feed there in winter upon the swamp acorns; raccoons leave the sharp imprint of their claws in the soft mud along the stream; musk-rats scatter the mussel shells over the shallows; and the opossums, whose tender juicy flesh is grateful to the bacon-eating negroes, are still caught there on moonlit autumn nights.

Nor is Horsehead wood the only part of the McDonogh Farm where animal life is abundant; other pieces of woodland being almost equally favored. Red and gray squirrels abound everywhere in the trees, and in September these spendthrifts scatter bushels of partially gnawed hickory nuts upon the brown and yellow leaves. Ground squirrels hurry along all the fences, shrilly whistling as they dive into their dens. In the stubble fields one cannot go far without putting into rapid flight before him a snowy-tufted "cotton-tail." An indolent ornithologist of the neighborhood has identified one hundred and thirty species without exhausting the resources of the fields and woods.

Over these teeming eight hundred acres the "McDonogh boys" roam at will, each according to his ability striving to become a mighty hunter in the earth. During the first spring after the opening of the school the boys found the woods abounding with birds' eggs and squirrels, which they might have for the trouble of taking. During the autumn they gathered chestnuts and walnuts and stored them away to be cracked and eaten before the big fire in the school-room. Whether in spring or in autumn, all who went to the labor of searching were rewarded with an abundance. When the

frost had killed the green shoots and troubled the rabbits to get a living, every boy that chose to do so set traps in the swamps and ditches, and baited them with sweet-smelling apples, or more pungent and effective onions.

The ground was then regarded as the property of the community, and while, like the ancient Teutonic villager, each "McDonogh boy" took pains to exclude strangers from the *Mark*, each regarded himself with the rest as a joint owner of the harvest of nuts, and all had equal rights of hunting and trapping in the waste. As in the precursors of those Aryan villages of the east, recently studied by Phear, "land was not conceived of as property in the modern sense, or as belonging to any individual."[1] The whole was common to them all, and every boy had a right to a portion of the fruits of the ground.

This idea of common property, if not the same as, is quite like, that which has prevailed in many primitive communities, "in Germany and ancient Italy, in Peru and China, in Mexico and India, among the Scandinavians and the Arabs."[2] Among the "McDonogh boys," as among many savage societies, the beginning of property in land is seen as "the collective ownership of the soil by groups of persons."[3] I had almost continued the quotation to make it include the words, "groups believing or assuming that they are" united in blood relationship. But while such a statement here would be untrue, the feeling of union among the "McDonogh boys" is of a very striking intensity. They become greatly indignant, and even have a sense of wrong done them when they discover a youngster from the neighborhood trapping game upon "our farm." This sentiment they have sometimes manifested in attempts to prevent the children of the men employed on the farm from gathering eggs in the

[1] Sir J. B. Phear, The Aryan Village in India and Ceylon, p. 236.
[2] De Laveleye, Primitive Property, p. 2.
[3] Maine, Early History of Institutions, p. 1.

woods; and the schoolboys regard their few competitors in hunting with an aversion often put into words and sometimes into acts.

This *esprit du corps* is perhaps the counterpart of the feeling that formed the bond of union in primitive societies. At the present day, among the members of the Hindoo joint undivided family, as well as among the villagers in the Russian *Mir*, it assumes the form of a belief in their descent from a common ancestor.[1] In other groups it took other forms, varying with the condition of the society in which it existed, often getting far away from its original form—that of a feeling of blood relationship. Thus among the Romans, "the stranger who had been adopted . . . became the agnate of the one adopting him, and even of the whole family."[2] This feeling of brotherhood is so deep and lasting that, similarly, it might be said of the "new boy," on his admission into the McDonogh School, "*in sacra transiit.*" The feeling of the boys is well shown in their conception of their rights to the property of the school, many of them regarding themselves as the legatees of John McDonogh, the philanthropist who gave his fortune to Baltimore in trust for the education of poor boys. He fills the niche once occupied in the minds of their Aryan progenitors by the common ancestor, from whom all the members of the primitive community thought themselves to have sprung. For the primitive fiction of common descent they have substituted the real bond of school fellowship and the pretended bond of succession. As they sometimes express it, "McDonogh left his property to us;" and the idea that any other than "McDonogh boys" have any rights over the property, they do not easily accept. This feeling is clearly displayed in their attitude toward one of the rules of the school. They are not permitted to pluck the fruit in the orchards, and some of them are honestly

[1] Maine, Early History of Institutions, p. 7.
[2] Fustel De Coulanges, The Ancient City, p. 75.

unable to see the justice of such a regulation. The fact that the fruit is given to them after it is gathered does not at all satisfy them. Conscientious boys have often said in my hearing that, as they owned the fruit, no one had a right to prevent them from pulling it. They are, however, debarred from carrying this idea into practice, and the truth has often been pointed out to them; so this notion is not universal among them. But as no one has interfered to dispel their belief that they have property in the nuts, eggs, and squirrels, they have made this a cardinal doctrine of their politics.

With this feeling of ownership constantly in mind, the boys that entered the school at its opening went peering through the high grass of the meadows in search of bobolink's eggs; and climbed the rough pin-oaks to the nests of the hawks. The first score of urchins were able to get as much as they desired from the fields and woods; but when the school grew in numbers, and fifty adventurers had boxes of bran to be filled with oölogical specimens, and bins holding each ten bushels to be stored with walnuts, the demand for these treasures began to exceed the supply. Then competition set in and disputes arose, out of which, with the aid of an apparent instinct for politics, the boys were able to bring custom and law, and a system of property which was odd and unexpected, yet orderly and intelligible.

Sir Henry Maine has said that among primitive Teutonic races the proprietary equality of the families composing the land-owning group was at first secured by a periodical re-distribution of the land. This custom he considers as marking an important stage in the transition from collective to individual property, and so wide-spread does he believe it to have been that to him, "there appears to be no country inhabited by an Aryan race in which traces do not remain of the ancient periodical re-distribution. It has continued to our own day in the Russian villages. Among the Hindoo villagers there are widely extending traditions of the practice,

and it was doubtless the source of certain usages," surviving to our own day in England and Germany.[1]

The stage of economic development in which re-distribution of the common land is practiced is the stage which the "McDonogh boys" have reached in their evolution of the conception of ownership of the walnut crop. To understand their position in the line of progress, however, we must first see how they now gather the crop, and how they formerly harvested it. Just after midnight some morning early in October, when the first frosts of the season have loosened the grasp of the nuts upon the limbs, parties of two or three boys might be seen, (if any one were sufficiently interested to leave his bed at such an untimely hour) rushing at full speed over the wet fields. When the swiftest party has reached a walnut tree, one of the number climbs up rapidly, shakes off half a bushel of the nuts and scrambles down again. Then off the boys go to the next tree, where the process is repeated unless the tree is occupied by other boys doing likewise. This activity continues during play-hours until all the walnut trees on the place have been appropriated. Nut-hunters coming to the tree after the first party has been there, and wishing to shake the tree still further, are required by custom to pile up all the nuts that lie under the tree. Until this is done the unwritten law does not permit their shaking any more nuts upon the ground. Any one that violated this provision and shook the nuts from a tree before piling up those beneath, would be universally regarded as dishonest, and every boy's hand would be against him. To collect all these nuts into a pile requires no small labor, and rather than undergo this the second party will usually go off in search of another tree. Consequently the partial shaking commonly enables the boy that first climbs a tree to get possession of all its fruit.

A certain justice underlies this custom. Labor has been expended in the first shaking. If another comes and shakes

[1] Maine, Village Communities, p. 82.

more nuts to the ground before picking up those already there, the fruit of the first boy's labor will be mixed with that of the second, and thus the first comer will lose some of his work. The moral sense of the community agrees that no part of the labor shall be lost to him that performs it, and to prevent such a result the present regulation seems effectual. In what notions, ethical or other, this practice of seizing trees was begun, we cannot now discover; but all analogies indicate that the justice of the matter was not the sole consideration. But if it is hard to discover the origin of this custom in the moral nature of the boys, we may yet see how it illustrates their views of property. Inasmuch as a tree is the property of a boy and his partners only so long as his nuts remain unpiled on the ground; and since the trees may be shaken again by any boy who chooses to pile up the nuts: it is evident that in the eyes of the boys the trees belong to all of them. The simple expedient for re-distributing the trees at intervals of a year is to cause all titles to expire at the end of harvest. A boy's right to a tree lasts no longer than a single autumn. If in all that time he does not remove his crop, and if no one else piles up the nuts and gathers the rest of the yield, still his right expires by limitation; and at the opening of the next season the first comer has a right to establish a title for himself.

It may be said that permitting each boy to seize such trees as he can, is hardly to be called an equitable method of re-distribution, but, as I desire to establish only the fact of re-distribution, this is not a valid objection. It is, however, true that efforts have been made looking toward a fair division. The keen competition for walnuts led many boys to shake trees in the middle of September, and thus to acquire a title to them long before the fruit was ripe. When baseball was still the main idea of the majority, perhaps a fortnight before the first frost, (everywhere recognized as marking the ripening of the crop), the greediest or the most enterprising boys would set out to seize and shake as many trees as possible.

Having no competitors they would be able in a few days to take possession of a whole crop of nuts. To alleviate this evil a day in October was fixed as the date of the beginning of harvest. An assembly of the boys, where all may take part, is the body which determined and still determines the opening of the season. The meaning of this public act is evident. It was felt that the few had seized what the many owned, and to prevent the recurrence of this robbery it was made unlawful to gather any part of the crop before all knew it was ripe. By fixing a day when the harvest should begin, the boys did what they could toward equalising the shares of each. They at least put all upon the same footing as regards the time of gathering, and they made each boy know when he must enter upon the competition. Though not all the starters could have the inside track, all got away together.

The idea of common ownership shown in this regulation is apparently the same as that which led to those periodical re-distributions of the land, of which, according to Maine, traces are found in all countries inhabited by people of Ayran descent. When the Russian *Mir* makes an allotment of arable land to each household proportioned to the number of its members, and fixes the date of the harvest; when the Dutch *Haagespraak*, or village assembly, fixes the day on which the horn shall blow to mark the time for cutting the corn on the village land,[1] the object is the same as that of the assembly at McDonogh. Equality in the shares of the fruit of the common domain is the desired result. In the adult communities the body making the re-distribution is well organized, and in arable land equal shares can be easily laid off; while among the boys their political machinery is imperfect, and the walnut trees are too far apart and too irregular in value to permit a fair division. The differences, however, seem to be differences of degree only.

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[1] De Laveleye, Primitive Property, p. 285; Wallace, Russia, Vol. I, p. 208.

While the community thus does what it can to give each member a fair chance, no effort has been made to equalise the industry of the competitors. The hardest workers still gather the biggest crop. The day for the opening of harvest is reckoned to begin at midnight, and the boys that are most in earnest stay awake till twelve, and then, issuing from their beds into the chilly moonlight of the October fields, they seize such trees as they desire.

The same feeling of common ownership of the woodland and the same attempt at re-distribution, which appear in the custom of gathering the walnut crop, are apparent in the usages of the school on the subjects of egg-gathering and squirrel-hunting. As eggs grew scarce and the boys grew numerous, those who most desired the eggs worked hardest to get them, climbing higher trees and wading through muddier swamps. As the more industrious boys saw the birds building nests over their heads, what was more natural than a desire to possess them before the laying began, and thus to acquire a title to the eggs? A boy who had spent hours in a weary search and had at last found a nest, felt that his labor gave him a right to it. Accordingly some boys began to invent ways of marking the trees in which they had found nests, and to claim ownership, not of the eggs, which were not then laid, but of the tree, in which they knew the eggs would soon be brought forth. Commonly when a boy found a nest, he laid a dead limb against the trunk as a warning to others that the tree had become his, and was no longer common property, to be taken by any one passing by. Rights thus acquired were not always respected by the covetous, and eggs were so often taken from marked nests as to lead to an intolerable condition of quarreling and fighting. The community then interfered to regulate the use of the *Mark*. After much angry discussion the assembly adopted the plan of nailing upon the trees a ticket bearing the finder's name and the date of the discovery. This ticket gave to the boy whose name it bore a right of property during the rest of

that year to all the nests that might be made in that tree and to all their contents. On the last day of December all titles were to lapse, to be renewed only by a new ticket.

Before the first bluebird has laid her pale azure eggs in the leafless orchards, the egg-hunters, in conformity with this statute, provide themselves with strips of paper bearing their name and the date, thus:

MILLER & CROOK,
1884.

These tickets and some tacks they take with them whenever they go into the woods. Where a hollow limb presages the birth of a brood of squirrels, one of these labels is nailed upon the trunk beneath, and another is placed under every crow's nest building in the branches. During the year 1884 no other honest boy will take eggs or squirrels from a tree thus appropriated, and Masters Miller and Crook may go at leisure and collect the new laid specimens for their cabinets or the weak-eyed pets for their pockets. In the immediate neighborhood of the school house little boxes are placed for the birds to build in, and serve the double purpose of insuring the making of a nest and of marking it as private property. When a boy has put into a tree one of these traps for unsuspecting maternity, no other boy is permitted to use the tree for the same purpose. A case lately occurred where, amid general approbation, the second box was destroyed by the owner of the first. The boys regret that the official discountenance prevents the full development of this interesting custom.

In placing his tickets a boy is at liberty to use his discretion as to time and place, and he may put up as many of them as he likes even before the snow has melted. Often of course the tickets are liberally distributed in promising parts

of the woods as early as February, and thus an energetic fellow obtains possession of scores of trees. The likeness here to the custom of seizing the walnuts is evident. The day for the opening of the season, January 1, has, however, been fixed once for all, while the date of the beginning of the walnut harvest is a matter for yearly consideration. The two usages differ in one other point also. A boy's title to a walnut tree that he has shaken is valid only until some one has piled up his nuts; after that is done, any one may take the rest of the fruit of the tree. But the right to a tree marked with a ticket is good for the rest of the year, if the ticket is not blown down and out of sight. Hence, if we regard the woods as land devoted to the production of squirrels and eggs, we may say that a boy marking a tree has obtained a share of this land for a year in severalty. At the end of that time the woodland again becomes common and there is a distribution by seizure.

This usage closely resembles the custom of temporary ownership in vogue in the Russian *Mir*.[1] M. de Laveleye

[1] The following description of the distribution of common land in the Russian *Mir* is taken from Wallace, Russia, Vol. I, p. 207. It serves as a living example of the resemblance between the customs of McDonogh and those of primitive society. "The whole of the communal arable land is first of all divided into three fields, to suit the triennial rotation of the crops already described, and each field is divided into a number of long, narrow strips—corresponding to the number of male members in the Commune—as nearly as possible equal to each other in area and quality. Sometimes it is necessary to divide a field into several portions, according to the quality of the soil, and then to subdivide each of these portions into the requisite number of strips. Thus in all cases every household possesses a strip in each field; and in those cases where subdivision is necessary, every householder possesses a strip in each of the portions into which the field is subdivided. This complicated process of division and subdivision is accomplished by the peasants themselves, with the aid of simple measuring rods, and the accuracy of the result is truly marvellous.

"The meadow, which is reserved for the production of hay, is divided into the same number of shares as the arable land. There, however, the division and distribution take place, not at irregular intervals, but annu-

has described in these words the same practice as it appears among many primitive peoples. "The cultivated land is divided into parcels which are distributed by lot among the several families, a mere temporary occupation being thus allowed to the individual. The soil still remains the collective property of the clan, to whom it returns from time to time that a new partition may be effected. This is the system still in force in the Russian Commune and was, in the time of Tacitus, that of the German tribe."[1]

Beside this temporary ownership of trees, permanent individual property in land frequented by rabbits has been developed. The process of development is somewhat similar to that which has been offered by several writers as an explanation of the growth of individual ownership among men. We can see clearly the successive stages of common land-holding; of temporary individual ownership; of permanent individual ownership; of land monopoly; and last of all, the rise of a socialistic party clamoring for a re-distribution of land.

When the explorations of the boys revealed the presence of nuts, eggs, and squirrels, numbers of rabbits were also discovered. Attempts were at once made upon the lives of these animals, for the purpose of adding a delicacy to the commonplace round of boarding school fare. Every boy that chose to do so, made traps and set them at such spots as struck his fancy, for at the start the equal rights of all to the woods and game were fully recognized. But ownership in severalty was soon established on the ruins of the system of common property.

Clearly to understand this economic revolution, we must consider it historically. The rabbit trapping season begins

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ally. Every year, on a day fixed by the assembly, the villagers proceed in a body to this part of their property and divide it into the requisite number of portions. Lots are then cast, and each family at once mows the portion allotted to it."

[1] De Laveleye, Primitive Property, p. 4.

about the middle of October and ends early in December. Its opening depends upon the weather, and not like the walnut harvest, upon the legislation of the boys. If there is an early autumn the rabbits may be induced by the scarcity of food to enter the traps sooner than if the warm weather continues till late.

In the first autumn after the opening of the school, each boy that chose to do so, made a box of planks, fitted one end with a door that would fall at the touch of a trigger, and having found a promising spot, there set his trap. The hungry rabbits were tempted with fragrant apples and appetizing onions, and a few victims were enticed within the fatal door. At that time no boy set more than half a dozen traps, and almost the whole school enjoyed the delightful anticipation of having rabbit for breakfast on some future morning.

But the spots where rabbits can be caught on eight hundred acres are comparatively few, and hence the closeness of the traps interfered with the amount of the catch. It is a habit with rabbits to move about in well-marked paths, and the boys usually set their traps in these places. Generally a rabbit will enter the first trap in his path, and boys often complained that their traps were rendered useless by the proximity of others. After a year or two of this unsatisfactory state of affairs, a large boy, who had set his traps rather earlier than the rest, began dropping heavy stones upon all traps set closer to his own than he thought desirable. In such a society as we are studying, a hard-fisted fellow of fifteen is a great personage, and has much the same influence as a great warrior in a primitive village. The example of this boy-magnate was imitated by all who dared; and by common consent, or perhaps by common submission, a limited distance between traps was agreed on. Within a circle about forty yards in diameter, drawn about a trap already set as a centre, no other trap was to be placed. For the season the owner of the trap first placed on any given piece of ground either assumed or was entrusted with author-

ity to break any trap placed within the specified distance of his own. Thus all persons were prevented from trapping in the protected spots.

Here we come upon another case of temporary individual ownership. If there was any serious opposition to it in the beginning, tradition has preserved no account of it. As the rights thus acquired lasted only for a year, each boy felt that next year he would have a chance to set traps in the appropriated spots, and to obtain sole ownership for himself. Cupidity moved those not moved by fear to consent to the scheme of the innovators. As the result proves, such compliance was highly injudicious. We have already seen how the custom of seizing trees became the means whereby some boys were able to get possession of more than a fair share of the walnut crop. A like selfishness was not absent from the breasts of the trappers. Some grasping spirits among them, dissatisfied with their nearly equal shares of "rabbit land," desired a greater catch than was made by the rest. Accordingly, a few of these "pushing young particles" combined, or rather conspired, in early autumn to make fifty traps and set them at intervals over a valuable rabbit district. The customary law did not permit a trap to be placed near one already set, and consequently, when the next party of trappers went to the place, they found it already occupied. It was dotted with traps. The ground around each belonged to the owner of the trap, and each trap was set so close to the succeeding one that another could not lawfully be put between them. The woods thus filled with traps became for the season the property of the greedy fellows who had contrived the plan of overreaching their schoolmates. The fact that they had gained possession by a trick did not in their own eyes invalidate their title. The law had been literally complied with, and the victims had no remedy but force. But as the monopolists were big and united, the force was all on their side, and they easily overawed their plundered rivals.

Thus temporary individual ownership of the soil came to be permitted and to be abused at McDonogh. It was to prevent the latter result in the village communities described by Maine that a periodical re-distribution of land was instituted. Such a custom, to give additional examples, was followed in the ancient Teutonic villages, among the Hindoos, and among the Dutch; and as there was a system of re-distribution of the trees, so there was theoretically a re distribution of the "rabbit land." Just as the right to a marked tree ceased at the end of the year during which the label was put up, so the right to land covered with traps expired at the close of the season. But while paper labels are perishable things, unlikely to remain on the tree during the winter, the heavy wooden boxes used as rabbit traps will continue in good condition for years at the same spot. Hence, a trap placed in a good situation gave its owner a great advantage the next year in renewing his claim. By re-setting his old trap he again became proprietor of the ground, and he could re-set it much more easily than another boy could bring a trap there and displace him. It was the old story of the odds on the side of Capital. When trapping was over for the autumn in which these events occurred, the monopolists left their traps upon the spots where they had been set, and the following autumn the same boys had merely to walk leisurely over the ground and set them once more. Thus it was easy for these boys to be the first in the field and again prevent others from trapping in the best places. When this occurred most of the other boys ceased to compete with these rapacious squatters. Some who persisted had to be content with spots so poor in game that they had not excited the cupidity of the monopolists. By this process, continued from year to year, the land fell into the hands of a few. The old system of common enjoyment disappeared, and, in its place, came permanent individual property.

When the custom of private property in land had been in force for several years, a new industry was introduced at

McDonogh. Three boys learned how to trap musk-rats, and engaged in the enterprise so assiduously that in a few weeks they had snares set at short intervals for a mile along the principal stream flowing through the school farm. Their success induced three others to make the same venture. It was then agreed by the two parties to divide the stream between them, the last comers trapping only along that part of the banks where the first had made no lodgment; and it was further agreed to support each other in maintaining exclusive rights to the banks. Thus six boys, who were among the largest in the school, and three of whom already owned large tracts of "rabbit land," were enabled to seize upon a franchise to which all the other scholars had an equal claim. No attempt was made to resist them and their ownership of the banks remained undisputed.

If we attempt to account for the last developments of the customs we are studying our task becomes easy enough. Whatever may have been the origin elsewhere of inequality of landed property, it is clear that at McDonogh its source was the selfishness of the strong. The fact that in Herbert Spencer's words, these boys had "like claims to pursue the objects of their desires;" that their world was "adapted to the gratification of those desires;" that they were similarly brought into their world and the consequent fact that they had "equal rights to the use of this world,"—these facts did not in the least interfere with the satisfaction with which the monopolizing landowners ate the rabbits that rewarded their iniquitous industry. On the contrary, they proceeded, with no qualms of conscience, to develop to the utmost their new powers of ownership.[1]

In the usual course of progress we should expect rights of devise to follow the appearance of rights of private ownership. "Originally," says M. de Laveleye, "testamentary disposition was completely unknown; primitive nations did not understand how the mere wish of an individual, taking effect after

[1] See Appendix on "The Instinct of Property."

his death, could decide the ownership of property . . ."[1] The opposition to the right of devise has in almost all cases, however, yielded to other considerations, and wills have been permitted. Thus, among the ancient Irish, the influence of the Church was paramount in disputes over the validity of devises. In Lower Bengal, after the break-up of the village system, wills were successfully introduced through the influence of English law.[2] In like manner, after the establishment of individual property at McDonogh, testamentary rights were firmly implanted. The necessary decease of the property holder is represented by his departure from the school; by regulation of the Board of Trustees the boys leaving the institution on reaching their seventeenth year. When the time came for some of the monopolists to die, they could not carry with them their ill-acquired rights, but none the less did they continue to take an interest in what they were about to lose. They bethought themselves of leaving their possessions to their friends. Two or three boys were commonly associated in the trapping enterprises, and when one departed he left his land to his partners. The remaining shareholders maintained the testamentary rights thus created. In this manner the title to the land was not only taken from the community and put into the hands of individuals, but the wishes of the individual owners were sufficient to establish the new legal principle of testamentary disposition.

When the system of individual ownership had been in operation two or three years, it had come about through judicious purchases and devises that all the land available for catching rabbits had fallen into the hands of three owners. They found it impossible, although they got up at three o'clock every morning, to visit all their traps, and, to relieve themselves of the burden, they began to sell portions of their land and to lease others. A swamp famous for its game they let in con-

[1] De Laveleye, Primitive Property, p. 178.

[2] Maine, Village Communities, p. 40; Early History of Institutions, p. 56.

sideration of the payment of half the rabbits caught in it. On another occasion a lucky fellow found the greatest treasure obtainable by an egg-hunter—the delicate downy nest and pearly eggs of a humming bird. These, together with some minor articles, he gave up to a monopolist for a piece of land.

The landlords have always kept enough land in their possession to supply themselves plentifully with game, and it must be said to their credit that they display remarkable energy and industry in tending their traps. On the coldest morning of November, they will leave their beds before daylight, and, lantern in hand, trudge off two or three miles through wet fields and dense bushes to the rabbit paths in the swamps, and the "gnaws" along the fences, where their traps are set; then back in time for chapel at half-past six. The walk is weary enough at times, but when they return with a rabbit dangling from either hand they feel amply repaid for all their toils. In the course of a single autumn the catch often amounts to a hundred and the possession of these delicacies makes the favor of the trappers much sought after by some of the boys. From this cause they are at times attended by several vassals, ready for most services required of them. These vassals will often visit such traps as their lords cannot well reach, and are rewarded with savory morsels. The *principes* and *comites* are not generally troublesome members of society; their rights are established, and, as long as society lets them alone, they have every reason not to quarrel with society.

Some restless busybodies have at times cavilled at the privileges of the landed aristocracy, although they have been so long established; and there has recently been some fear of an agrarian revolution. Until lately all the most productive land was in the hands of three boys; and at length, envy of their prosperity caused the rise of a socialistic party. These reformers desired that a re-distribution should take place, and that every boy entering the school should have an equal share with those already there. "The land," said, in sub-

stance, the leader of the agitation, "belongs to all of us. Every boy here has the right to catch rabbits. Boys that leave the school have no right to give away their land. It belongs to those that come to take their places. We are forty-seven to three. We must combine and force these robbers to divide."

These demands were so vehemently urged, that the monopolists found it necessary to make some concession. Accordingly they picked out some of the least productive ditches, and gave them to members of the agrarian party. This had the effect of quieting the agitation for a time, but it was soon renewed. The three boys who held most of the land had promised to devise it at their departure from the school, to a single owner, one of their retainers. No sooner was this known than the socialists returned to the attack. A dread of revolution took possession of the landlords, and they yielded to the popular clamor so far as to forego their intention of appointing a sole legatee. One-third of their property they sold to a firm of three members; another part they sold to two boys; and the remainder they gave to another firm of three, one of whom was the boy they had proposed making lord of the manor. About the same time the socialistic leader became engaged with five others in the aforesaid monopoly of musk-rat catching. These circumstances cooled the zeal of the reformers and the agitation died out.

## 2. Boy-Legislation.

The legislation of the boys has been already referred to in speaking of the growth of ideas of property in nests and trees. We have seen how the school-fellows fixed the date of the walnut harvest, and determined that nests should not be taken from trees marked with a ticket. No account, however, was given of the legislative body and its procedure. The former resembles in the extent of its powers the primitive assembly, or village council. Its origin, however, was

entirely independent, and not the result of any imitation. The boys have never the faintest notion that they are reproducing one of the most ancient of institutions. They do what seems good in their own eyes, with no reference to the outside world, and with no intention of imitating anything belonging there. Yet the account given by Wallace might almost be taken for a description of the Boy Assembly at McDonogh.[1] Each of the assemblies is democratic and primary; each legislates; as will presently appear, each judges; each is guided by an unwritten law; each exerts itself to make as nearly as possible a fair division of the communal property; each fixes the date of the opening of harvest. The informality of the

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[1] I quote here the liveliest description of such a body that I am acquainted with. "The Commune is, in fact, a living institution, whose spontaneous vitality enables it to dispense with the assistance and guidance of the written law. . . . All the real authority resides in the Assembly, of which all the heads of households are members."

"The simple procedure, or rather absence of all formal procedure, at the Assemblies illustrates admirably the essentially practical character of the institution. The meetings are held in the open air. . . . Any open space, where there is sufficient room and little mud, serves as a Forum. The discussions are occasionally very animated, but there is rarely any attempt at speech-making. . . . The whole assemblage has the appearance of a crowd of people who have accidentally come together, and are discussing in little groups subjects of local interest. Gradually some one group, containing two or three peasants who have more moral influence than their fellows, attracts the others and the discussion becomes general. Two or more peasants may speak at a time and interrupt each other freely, using plain, unvarnished language, not at all parliamentary, and the discussion may become for a few moments a confused, unintelligible noise, 'a din to fright a monster's ear;' but at the moment when the spectator imagines that the consultation is about to be transformed into a promiscuous fight, the tumult spontaneously subsides, or perhaps a general roar of laughter announces that some one has been successfully hit by a strong *argumentum ad hominem*, or biting personal remark. . . . Communal measures are generally carried in this way by acclamation. . . .

"The assembly discusses all matters affecting the communal welfare. . . . It fixes the time for making hay, and for commencing the plowing of the fallow field; . . . above all it divides and allots the Communal land among the members as it thinks fit."—Wallace, Russia, vol. I, p. 193.

Russian Assembly is naturally exceeded amongst the school-boys. In the Russian body, every man is so independent that the Village Elder has only the semblance of a presiding officer's authority, without the power even to call a member to order. At McDonogh no president is known. Whoever is most influential takes the lead in despatching the business of the moment. It is not, however, necessary to break the wind of our comparison by driving it too far; all that is desired is to point out the general similarity of the Assembly at McDonogh to a typical village council.

The entire informality of the proceedings of the boys and the principles that underlie their actions are well brought out in the accounts they have given me of the passage of their more important laws. When attempts were first made at exclusive ownership of trees containing birds'-nests and squirrels' dens, the community took notice of the matter. Some boys had the habit of marking a tree by laying a piece of wood at the foot, and others by writing their names upon a piece of paper and fastening this upon the bark. The conservative boys desired that no system of marking should be permitted. The debate on the question of what should be done was not held on a fixed day, or in a settled place, or even in the presence of the whole body. School work and play were too pressing for all to gather at once. On the contrary, the subject was talked over wherever several boys came together. Traditions vary as to whether a meeting of all the boys was held to make the final test of a vote; and whether the time of voting was extended over a whole day or even several days. But whatever may have been the details, the essential facts are clearly enough described in all the accounts.

After much debate, three resolutions respectively embodying the views of the three parties were written out and pasted upon the wall of the school room. The vote was then taken, and each boy signed his name beneath the proposition that he favored, where it was in full view of everyone.

Upon counting the signatures, a majority was found to be for permitting the placing of tickets upon trees as evidence that they were claimed by individuals. This "rule" (which is the term the boys apply to their enactments) immediately went into effect, and has ever since been the law. The decision was by most voices as it would have been at Washington or Westminster. In that lies the cardinal fact. Whether by imitation or by instinct, the boys hit upon the principle that hinges all "government by discussion."

Some years after the passage of the law providing for the ticketing of trees as a means of taking possession, it was found that labels tacked upon the trunks occasionally fell to the ground; whereupon a passer-by, although he might see the label lying at his feet, would take possession of the eggs that it was intended to protect. A strict adherence to the letter of the law is counted as righteousness among primitive peoples, and our boys are yet in the savage state of morality. In order to improve the security of property, a meeting was held at which, I understand, but few boys were present. It was agreed by them without any of the formality of a written vote, that it should thereafter be unlawful to disturb any nest where the label intended to mark it could be seen lying upon the ground. After this assembly broke up, the consent of a sufficient number of other boys, who had been absent, was obtained by going about and asking them to agree to the "new rule." The informality of the passage of this statute seems to have caused no remark, and it is still part of the law. Upon its application turned an interesting cause to be hereafter described.

Some incidents seem to point to the downfall of the popular system of law-making. The fact that a small number of boys have sometimes agreed upon a "rule," and afterwards obtained the consent of a sufficient number of the rest to put it into operation is a constant temptation to the stronger and more influential boys to propose laws and declare them adopted without the consent of a majority. The land monopolists take the lead in this revolutionary measure and their course is

skilfully chosen. They are careful to make such regulations as meet with general approval. A small body of large boys may easily avoid a collision with the others and yet impose laws without the formality of consulting the rest. The next and easy step is to an oligarchical government. There are indications that before many years it will be taken, and that equality of political rights will share the fate of the equality of property.[1]

### 3. Judicial Procedure.

Inquiries into the customs of the "McDonogh boys" cannot be carried far before one is struck with the peace and good order generally prevalent in the community. Fights between angry boys do sometimes occur, to be sure, but the belief of the authorities of the school is that the number of these combats has steadily decreased with the lengthening life of the institution. Little fellows who have not lived at the school long enough to have become imbued with the general feeling often tug and strike impotently at each other; but the older boys so seldom ask the decision of the fist that a fight between two of them is an event never to be forgotten, which tradition hands down with greater embellishment at each succeeding year. When a combat does begin it rarely happens now that the matter at issue is connected in any way with rights of property. Insults and bullying may lead to fights, but disputes over nests or trees usually come to a peaceable end. Yet this result has not been reached by active efforts on the part of the Principal and his assistants to prevent fighting, or even greatly to discourage it. No boy has ever been punished because he was the bearer of a pair of blackened eyes; and further than to prevent exhibitions of violence in their immediate presence, the teachers have not interfered with any arrangement for settling quarrels that might be made by the pupils. In spite of the objections that

[1] See Appendix for an instance of the triumph of the oligarchs in a contest over the date of the harvest.

may be offered to this official apathy by the sentimental reader, a close approach has been made among the members of a quite heterogeneous body to the desirable state of peace and good will. No control having been exercised by the faculty, the boys themselves have regulated the matter.

The custom of the school from the earliest days has been, when a fight is in progress, to form a ring of excited and vociferous spectators around the enraged pair, and to regard the struggle as a gladiatorial exhibition for the entertainment of the throng. The fighters, thus made the center of the public interest, are usually impelled by self-respect to desperate efforts; but where this is not so, the lookers-on, feeling themselves defrauded of a proper gratification, will often insist upon a continuance of the struggle until one or the other of the combatants is thoroughly beaten. Every boy, therefore, feels he must beware of entrance to a fight, and all other possible measures are usually tried before an appeal is made to force.

I should give a very incorrect impression, however, if I permitted it to be thought that the McDonogh boys never yield to ill temper. As will presently appear, they are in possession of an effective means for settling quarrels over the title to property, but the punishment of offenders is left to the injured person and his friends. When, in the autumn of 1883, a boy from the neighborhood was detected in robbing rabbit traps, the owners of the game summarily and successively gave him a beating, without the least formality or authorization. A case has also come to my knowledge where a debtor, who had made an assignment of his property which proved insufficient to meet all demands, was trounced very soundly by an angry creditor. Another debtor had exhausted the patience of his creditors by unfulfilled promises to pay, and was plainly told by them at last that unless his debts were liquidated within two weeks, he must fight them all in succession.

While such deeds of violence stand out in the reader's mind, in the daily life of the boys they bear the same insignificant

ratio to the quiet whole that the murders held up to daily horror in the press bear to the humdrum life of the world. This peaceful condition appears in a more striking light when one considers the great number of questions for dispute certain to arise in the daily life of the "McDonogh boy." He often hears discussions over the rights of the rabbit-trappers to the possession of the land; he can hardly fail to weigh the arguments by which their practice is attacked and defended; and he is sure to take sides either for or against them. The perplexing questions of the advantages and disadvantages of a system of individual land-holding are not the only difficulties with which his sympathies and his reason have to deal; for the working of the customs of the school frequently forces upon his notice intricate problems of right and usage. It is apparent that in the operation of the somewhat complicated system of property heretofore described, it is impossible to avoid disputes, and other causes of contention are not wanting.

The inconvenience of fighting over all these matters has led the boys to invent an archaic judicial system, which presents almost as many analogies to primitive usage as do the customs of land tenure already described. Perhaps no savage usage is more widespread than that of an appeal to chance to decide questions of fact. "The almost universal test among savages of guilt or innocence, where there is a want or conflict of evidence, is the ordeal," says Farrer.[1] The same author remarks that some of these tests "decide guilt not by an appeal to the fear of falsehood as an oath does, but by what is really an appeal to the verdict of chance." The pages of travellers teem with instances of this custom. When the natives of the Gold Coast decide the guilt or innocence of the accused by the facility with which he draws a greased fowl's feather through his tongue, or a cock's quills from a clod of earth,[2] the result is left entirely to accident. An equally

[1] Farrer, Primitive Manners and Customs, p. 173.

[2] Bosman, quoted by Farrer, *ibidem*, p. 175.

unreasonable form of procedure is followed at McDonogh to decide many trivial questions. That reverence for luck to which attention has been called by Bagehot as so strong among children and savages, holds its own there.

In the game of marbles, a very intricate game as played at McDonogh, with endless opportunities for difference of opinion, almost all questions of fact are settled by a sort of ordeal. Suppose, for instance, that Edwards, Taylor, and Fergusson are playing, and that but one marble remains in the ring. When this is shot out by Edwards, each of the others cries "second." Apparently, they utter the word simultaneously, but each claims the right to shoot next after Edwards in the next round. "I had second!" says Taylor.

"No, you didn't: I had it!" declares Fergusson.

Taylor then thrusts his hand into his pocket, and brings it out closed over one or two marbles.

"Odd or even?" he asks his opponent. The other guesses and answers: if his guess is right, he has the second shot; if he fails, Taylor precedes him. Some boys that I questioned, regarded this as nothing but a device to avoid quarrels; but others thought that "something would make a fellow guess right if he deserved to."

Luck is also permitted to decide questions of ownership. In the spring the boys usually form partnerships of two or three, and put all the eggs they find into a common box. In the fall they dissolve these firms, and as they always divide the stock of eggs by "drawing straws" for the first choice and alternately choosing the eggs, they reach a very unfair result. The boy who draws the longest straw chooses the best egg each time it is his turn to choose, while his companions get the next best. At the end of the division there is usually a second drawing for the odd egg. In this drawing the boy who before had the luck to get the first choice is on as good a footing as the others, and of course it often happens that after having chosen the best eggs he also gets one egg more than the others.

I am conscious of a feeling that these facts look petty. I am aware that some of my readers will say: "There is nothing remarkable here. Luck enters more or less into every game. Why call attention to a thing everyone has seen?" I can best answer this in Mr. Bagehot's words: "Persons who stand up for the dignity of philosophy, if any such there still are, will say I ought not to mention this because it seems trivial; but the more modest spirit of modern thought plainly teaches, if it teaches anything, the cardinal value of occasional little facts."[1] The very universality of this regard for luck, which is admitted in the objection, is itself proof of the proposition I desire to advance, viz., that one of the striking resemblances between children and savages appears in their constant appeals to chance. If everyone has in his own experience a fact going to support this, the proof is so much the stronger.

An appeal to a bystander to settle a quarrel in order to prevent an appeal to force is so common among all boys, that everyone must have in mind instances of its occurrence. When two McDonogh boys quarrel over a rule of marbles, some one near is often asked to settle the dispute. A little fellow told me that they liked to ask the mediation of "a big boy who could whip the others." Sir Henry Maine thinks he has traced to this universal habit of arbitration the origin of the Roman *Legis Actio Sacramenti*. "Its venerable forms pre-suppose a quarrel and celebrate the mode of settling it. It is a passing arbitrator whose interposition is simulated by the Praetor." The expedient of laying a wager to secure the postponement of a quarrel, (very common among McDonogh boys), the same authority, with an apology for the seeming triviality of his suggestion, supposes "to be the true significance of the *Sponsio* and *Restipulatio*, which we know to have been of the essence of the ancient Roman *Condictio* and of the agreement to appear before the Praetor in thirty days."[2]

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[1] Bagehot, Physics and Politics, p. 130, (Eng. ed., 1876).

[2] Maine, Early History of Institutions, pp. 259, 260.

Arbitration, the ordeal, and the wager are not the only modes of settling quarrels practised at McDonogh. All the boys near the scene of a dispute are sometimes appealed to for the decision of a controversy. The simplest instance of the exercise of judicial power, by a number of boys together, occurs when several of them are inconvenienced by some wrongful act of one. They summarily decide his guilt, fix his punishment, and execute the sentence upon him. During the summer vacation the boys remain at the school except for a few days, and their time is spent in light work upon the farm. It sometimes happens, when a squad of boys is sent into the harvest field, that one of the number is told off to bring them water to drink during the heat of the day. The part of water-carrier is usually assigned to the smallest boy present, and in his frequent trips between the spring and the wheat field he may succumb to the temptation to wander off after a birds'-nest or to lie down in the shade. If he is detected in such a misdeed by his companions, they seize his arms and legs, lift him from the ground, and swing his body against the nearest tree—a punishment known at McDonogh by the name of "bumping." Any neglect of duty by which a number of boys are inconvenienced is likely to be followed by this penalty. A boy whose business it was to bring the butter for meals from the dairy to the dining-room was once "bumped" because his thoughtlessness forced the whole school to breakfast without that pleasant emollient.

Disputes arising from their peculiar customs of ownership are settled by boys assembled at the place where the controversy is carried on. Most commonly this is in the play-room where they can be free from observation. When Black and Landreth found the nest of a dove in the pines, seeing no mark of prior owners upon the tree, they took the eggs and brought them to the house. As they sat in the play-room with needles and straws, preparing the eggs for their cabinet, Delphey overheard their talk, and questioned them about the spot where the nest was discovered. He soon convinced

himself that the nest was one that he had found but a few days before, and on which he had placed the mark of himself and his partners. When he was satisfied on that point he at once laid claim to the eggs. Landreth and Black angrily refused to give them up, and they were soon hot in dispute. Under the law made for such cases the question of ownership is a nice one. It is granted on both sides that if Delphey, the first finder, is to retain a good title, his label must either remain upon the trunk of the tree, or else lie in sight upon the ground beneath, where it has fallen by accident. If neither alternative is complied with, any subsequent finder may either take the nest or mark the tree with his own label.

By this time a knot of a dozen boys, who had been idling about, had formed around Delphey, listening intently. In a few moments he called Duvall, his partner, for confirmation, and with the utmost particularity related the circumstances in which he had found the nest. Delphey told of the route they took over the stream, through the swamp, and up the hill; and mentioned the boys they met on the way, whom he compelled to corroborate his assertions. By the time Duvall takes up the account, the ring surrounding them has become larger; perhaps twenty boys have gathered, and they listen with strained attention. He proceeds to describe the tree in which the nest was placed, and dwells with convincing minuteness upon its exact situation, upon the color of the bark, the broken limb, the knot half way up the trunk, and the nailing of the label upon it. To all of his statements it may be that his adversaries, Landreth and Black, assent, only interjecting at intervals the words: "But there wasn't any mark on the tree when we were there." The declarations of either party are addressed as much to the throng around as to their opponents, and it is evident, in the heightened color of the bystanders, in their sparkling eyes, and in their tense muscles, that to them the question is of absorbing interest. Now that the argument of the plaintiffs has been heard in full, there can be no doubt that they marked the nest as they

declare; and yet there is nothing to indicate that the defendants have any intention of restoring the property.

Seeing the angry looks and threatening gestures of all the group, one who does not know the school may judge that blows will follow next, and that a general conflict is about to ensue between the partisans of the claimants. Nothing could be farther from the truth. What has occurred is but the ordinary proceeding of a very primitive court of justice. Delphey knows that Black's arms are strong, his fists hard, and his blows rapid. Landreth has no desire to risk the destruction of his treasure in a struggle where, even if he retains it, he is sure to do so at the cost of bruises and blood. As he rises angrily from his seat and pushes through the crowd, he is not seeking space in which to fight, but a witness to establish his title. This body of spectators, who seem intent upon hearing the whole matter and sifting it to the bottom, is—if the name will serve—the folk-moot, the assembly of the people, met to see justice done according to law. Each boy standing in the ring around the orators knows that to-morrow he may be there to maintain his rights before a similar body, in which the plaintiff and the defendant of to-day will alike have a voice to decide upon his claims. He has a feeling that a decision contrary to established custom, however it may accord with his momentary sympathies, will be treated as a precedent to overthrow his most cherished interests, and to prevent the operation of rules upon which he has confidently counted in every venture in which he is engaged. Every boy there is determined upon the entire preservation of the system of law upon which he has based all his hopes of filling his egg-cabinet.

We have turned aside a moment from following the actions of the litigants. The clamor of voices rose louder as Landreth moved off, but it subsided somewhat as he reappeared, accompanied by Miller, on whose testimony he relied. The newcomer rapidly explained to those around that he, too, had seen the nest on the day Landreth took it; he had examined the

tree, and Delphey's mark was not upon it; he had searched the ground beneath, and could not find the label there; he would himself have carried off the find, but for the fact that he saw only a single egg, and thought it better to put his own claim-mark upon the trunk, and wait till more eggs were laid; when he had intended to return and get them. It had happened, however, that during his previous search for nests he had, in marking other discoveries, used up all the labels that he had brought with him, and he had therefore been unable to appropriate the tree at the time. It was after he had gone away, and before he could return with a label, that Landreth had found the nest and possessed himself of its contents, which had meanwhile been increased to two eggs by the industrious bird.

This evidence ended the trial. Loud cries arose from all parts of the throng. "It's Doggie's nest. It wasn't marked when he found it," said one member of the tumultuous court. "Your mark was blown away, Rufie," exclaimed another; "It's Doggie's nest." No opposition of importance was made, and, the decision being rendered, Delphey and his partner saw their case was lost and slowly walked away. Landreth and Black, who retained the eggs, returned to their work of blowing them with straws. The making of the claim, the trial and the decision, occupied less than half an hour. If not sure, this justice is at least swift.

A word may here be given to the ethical questions brought up by this decision. It was admitted by all parties that two boys had found the nest before Landreth and Black had seen it. Landreth's claims in the view of equity would have to yield to Delphey's, who not only found the nest but marked it, and who, in so far as prior discovery gives any rights, clearly had them all. Landreth's title rested upon a purely technical ground. Yet, with a characteristic analogy to primitive habits of thought, it was considered that the perfect title was obtained by a literal fulfilment of the words of the law, by an exact compliance with its minutest provisions.

The law provided that no one should take a nest when the mark was on the trunk beneath, or in sight upon the ground. As it had been proved by Miller's testimony that Landreth could not have seen Delphey's label, Delphey's rights vanished.

There can be little doubt that the negligent driving of a tack was all that made Landreth the better owner than Delphey, and that Landreth was perfectly aware of this fact. When the suitors and judges were questioned as to why such a decision was given, the only reply to be obtained was, "That's the rule." Like Shylock, Landreth might have said: "I stand here for law," and his determination was to maintain to the full every legal privilege. The idea that the law might give advantages, the use of which morality could not sanction, is so late of development in the legal history of mankind that we must not regard the absence of such a conception among these boys as an indication of an abnormally low state of moral culture. To look for exalted views of right and wrong among them would be to expect them to reverse the usual processes of mental progress.

I have treated this incident at such length because of its typical character, and of its likeness to primitive usage. If it was an event of rare occurrence, its significance would be less; but it is, in fact, an example of what occurs almost daily at McDonogh. The crowd of boys assembled about the contestants, whose verdict decides the controversy, is, in many respects, the counterpart of a primitive assembly of the people in the folk-moot. Every boy has the right to express an opinion and every boy present exercises his privilege, though personal prowess and great experience in matters of law have their full share of influence on the minds of the judges. The primitive idea that dispensing justice is a public trust, which the community itself must fulfil towards its members, is embodied in this usage of the "McDonogh boys." The judges are not arbitrators chosen by the disputants, nor are they public functionaries, whose sole business

is to preside over the courts, but the whole body of the population declares by word of mouth the right and wrong of the matter. This tumultuous body of school-fellows, giving decisions in quarrels and determining questions of custom, reproduces with remarkable fidelity, the essential character of the primitive Assembly.

### 4. Boy Economy.

It accords with the analogies heretofore drawn in this sketch, that barter is common in the trade of the boy-community, and the staples of the hunting stage of culture are much dealt in. When a boy finds the white eggs of a pewee he is seldom content with once despoiling the mother of her treasures; and, by putting into the empty nest a marble or a round, white stone, he often succeeds in inducing the credulous bird to repeat her maternal function. Not that he desires to hoard more than two or three specimens of a kind; but there is a certain exchange value attached to every egg, which enables its possessor to buy others he may lack. For example, a hunter and trader has told me of the egg of a wood-pewee and the egg of a bee-martin having been given for a single egg of a yellow-throated vireo. Again, while one partridge egg passes for one of the red-headed woodpecker, and two chickadee eggs have been paid for one of the great red-shouldered buzzard, no fewer than seven eggs of the sandy mocking-bird are required to buy one rare kildeer's egg. By means of these exchanges a hunter is able to round off his collection, and to give it a completeness unattainable if he relied solely upon his own trophies. Among other natural products forming subjects of barter may be mentioned cherries, raspberries, apples, blackberries, and grapes. These are collected in considerable quantities; and are exchanged with the housewives of the neighborhood according to an equitable scale of prices, hot pies being taken in return for fruit. After a similar manner the rabbit trappers,

unable to consume all their game, put a portion of it upon the market; where they receive in payment, any convenient article of boy-merchandise, such as a knife or a top. The successful squirrel-hunters obtain more of these pets than their affection is capable of covering, and the surplus they exchange with such boys as have not the agility and daring necessary to reach the aërial nurseries.

At the same time, passing from the hunting to the pastoral stage, they build pens for their captives, where they confine the animals, rearing and training them for weeks. The attention thus required sometimes exceeds the ability of the owners, and they find it needful to employ an assistant. I quote from *The Week*, the little newspaper in which the boys chronicle their doings, the following note of a contract of this sort between master and servant:

"April 14, Miller and I made a bargain with Cook about feeding our squirrels. We told him we would give him a healthy young grey squirrel if he would feed all the squirrels we got this year. We furnish the food, milk for the young ones and nuts for the older ones. He feeds them from three to five times a day. H. C." I hope I shall not be thought to trifle with a grave subject if I suggest that in this use of domestic animals as a means of paying wages we come upon a reproduction of that old form of money, whose character is indicated in the supposed etymology of our English word fee, (German *Vieh*, cattle), so long a standing illustration with economists.[1]

Commonly the primary object of the hunters is to obtain a handsome collection of curiosities, and to enjoy the satisfaction of possession along with the esteem inspired by success; but occasionally a boy hunts with a purely commercial end in view. I have been told of one who made a practice of exchanging all the eggs he found for the allowance of butter

[1] Roscher, Political Economy, I., p. 352. See also Maine, Early Hist. Inst., "feud," "fief" from *Vieh; cf. pecunia, pecus.*

given to his companions at meals. This latter is dealt out to the boys in approximately equal portions of an ounce weight, and is frequently used by them as a means of exchange and measure of value. A flying squirrel has been known to bring fifteen "butters;" and a sling, five "butters." The unit is subdivided once, the fractional piece being know as the "half-butter," and having a purchasing power about equal to that of one cent. Some boys who entered upon the manufacture of taffy obtained the needed butter by buying it from the rest at the price of two cents for one "butter," payment being made, at the option of the seller, either in money or in taffy.

Their transactions are often so complicated that the boys find it desirable to lessen the number of payments of this novel currency, and they employ for this purpose a system of verbally transferring their claims from one to another, somewhat as merchants use negotiable notes. Perhaps A buys a knife from B for ten "butters." B has an outstanding debt of the same amount for marbles; and he transfers to his creditor C, his claim against A; who pays to C, or to anyone else whom C may designate.

At first glance this use of butter as money seems laughably odd; but in fact it could be easily paralleled by long lists of articles equally far removed from the gold, silver and paper of our own currency, which have yet served as money in different parts of the world. The wampum of the early Indians is familiar to all readers, and Jevons and Roscher enumerate, among many other substances that have been so used, corn, wolf-skins, whales' teeth, and straw mats.[1] The former of these distinguished authors remarks, that "it is entirely a question of degree what commodities will in any given state of society form the most convenient currency;"

[1] Jevons, Money and the Mechanism of Exchange, pp. 19–29. Roscher, Political Economy, I., Section cxviii.

and our boy-state being in a condition where butter served the purpose, its citizens adopted that commodity as their money.[1]

The agricultural stage of progress is scarcely to be discerned in the history of the boy-community, the explanation perhaps being that the boys have so much agricultural labor to perform in their daily tasks that they have but little taste for it during their hours of freedom. At any rate, further than to admit the ownership of a few neglected gardens, they seldom take any independent part in tilling the ground. In the manufacturing stage they are much more advanced, and some of them have carried on the making of taffy with considerable profit. There being no competing shop within a mile's walk, a little molasses, a little butter, a tin pan, and

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[1]At Phillips Exeter Academy, New Hampshire, in my day, there was a pie-currency in vogue among the boys who boarded in Abbot Hall. Pie was something of a luxury, for it was furnished by "Burnham," the steward, only twice a week. The idea of value in exchange was naturally connected with our Saturday and Sunday allowance of pie; in fact there was a constant trading of different sorts of pie, a boy offering his mince or custard pie of one week for the apple or pumpkin pie that was to come the next week. Pie-debts were, moreover, incurred in a variety of ways, chiefly for services rendered, *e. g.*, by one's chum in making the fire on a cold morning, when it was not his turn; or by one student aiding another in his lessons, etc. Boys would wager their pie sustenance for a week, and sometimes for a month, on a match game of ball. These young barbarians, at their ball play, used to rival the ancient Germans, who, as Tacitus describes, sometimes staked not only their property, but their very freedom in games of chance. What could be greater recklessness for a hungry boy than to risk his pie for a month on the issue of a game of base-ball? In ordinary transactions the unit of pie-value at Exeter was the "piece," which was served us on a special plate; but there were as many standards of value as there were sorts of pie, so that in the settlement of a small debt of one or two "pieces," boys sometimes sought to pay their creditors in pie of an inferior or less marketable quality. Poor pie was like trade dollars. Sometimes a creditor would find himself with an embarrassment of riches. If his debtors insisted in paying off their obligations on one day in one sort of pie he would be obliged to eat up all his perishable substance at once, or to dispose of it at a considerable sacrifice.—Ed.

the borrowed stove of a friendly cook, or even an improvised furnace of stray bricks, formed all the capital required for the successful prosecution of this enterprise. The market for the product was immediate, the demand pressing, and nothing but legal money was taken in payment. It was easy to treble the investment at each venture, and capitalists who before had counted their possessions in cents soon began to reckon in dollars. Naturally a fierce competition set in, and improvements were made in the manufacture: pulled taffy was substituted for the crude, dark product; and the making of caramel was attempted. As a means of attracting customers, sales upon credit were made, the time of payment being extended to the next holiday, when supplies of cash might reasonably be looked for. It was not long before a large part of the community was deeply in debt; and a most interesting commercial crisis might easily have followed these events; but knowledge of the state of affairs coming to the supreme government, the further sale of confectionery was prohibited. Such a measure was not nearly so disastrous to the commercial part of the community as might have been the case in the adult world; for the juvenile manufacturer, when cut off from any market, is able to consume his wares in his own person, with the result, perhaps, of only a slight internal disturbance. In order to prevent any temptation to engage in the illegal traffic, the sale of confectionery was made a government monopoly, like that of tobacco in Germany, and sweets were retailed to the citizens at wholesale prices.

While despotic interference, as in the matter of the taffy trade, may prevent the natural development of many interesting usages, it has also given rise to a new institution of the highest importance, whose subsequent history cannot be neglected. The regulation of the out-door work of the boys has led to the use of still another form of currency, and to the establishment of a banking system. When the school was opened it was found necessary to devise some means of pun-

ishing many petty offences. None of the ordinary penalties, such as writing "lines," or any other sedentary torture, commended itself to those in charge; but as the school was in possession of a large farm, and as farm labor provided vigorous out-of-door exercise, while it was at the same time unpleasant enough for the purpose in view, it was decided to put the culprits to work at hoeing and weeding, picking stones, and such like tasks. For neglect to blacken his shoes before breakfast a careless urchin was compelled to spend an hour-and-a-half, hoe in hand, among the cabbages, while his more heedful companions played baseball or marbles. A record of each boy's misdeeds was entered in a book and called his "debits;" and one "debit" was cancelled when the evil doer had spent the required time in labor and had thus earned a "credit." After his penance, his sins were no longer remembered against him.[1]

It was felt that farm work afforded so valuable an industrial training, together with such excellent hygienic results, that it would be well to make systematic out-door employment part of the education of every boy. With this view the whole school was made to husk corn and do all other light farm work affording employment for all of them together. When there was not enough work to keep all busy, only those were compelled to labor who had peccadilloes charged against them, or to use the slang of the school, those who had "got on the work list." At the same time the principal concluded to pay wages for the work thus done. It was then decided to give each boy, whether charged with any fault or not, a "credit" for every hour-and-a-half he spent at work.

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[1] This system of making manual labor a punishment was not begun without some fear lest it might make the boys feel that labor was degrading. Happily no such idea obtains among them, perhaps because the offences thus punished are rather the result of boyish heedlessness than of any moral turpitude. Work is felt to be an evil to be avoided, but the habit of industry never suffers.

If he had no misdeeds to clear off, the "credit" would indicate that he had performed a work of supererogation, entitling him to impunity for a future offence.

"Credits" were of little value in the eyes of the boys until they were made transferable. This happened very soon and, in a measure, through the action of the boys themselves. A little fellow who had a faculty for getting into trouble, excited the pity of a big schoolmate by having such a score that he could apparently never balance it by his own efforts. The older boy was allowed to transfer to the younger's account a portion of his wages saved, and afterward any boy having more "credits" than "debits" was freely permitted to dispose of the excess as he wished. This gave an exchange value to the "credit" which at once, and immensely, increased its importance. A boy who "had got on ten days" had only to induce some one to transfer ten "credits" to his account, and he was saved the discomfort of spending ten of his afternoons, axe in hand, at the wood pile. The inducement for the transfer he could provide in cake, apples, a top, a sling, or any other article of juvenile merchandise. Conversely, a boy having a number of "credits" could buy many desirable articles from those "on the work-list." "Credits" at once became currency, transferring and measuring value. Like all currency as yet invented, the "credit" is unstable in purchasing power, but the prices here quoted will give a reasonably accurate idea of the worth of the unit. During the autumn of 1884, twelve plain "pewee" marbles sold for one "credit;" as did two of the more esteemed "potashes." Formerly four ginger snaps fetched the same price, or one stick of cocoanut candy, or one large "life-preserver" ginger cake. Two "credits" will buy a plate of dessert; five "credits" were the wages of a boy hired to help in the walnut harvest; ten were given to another for shaking a chestnut tree; twenty-five for wading into a tank of water in search of a lost ring; and sixty for a valise. The transfer of "credits" is effected by means of a written check in the following form:

McDonogh, *January* 1, 1884.

*Mr. Lyle:*

Please give Boullt ten of my credits.

*Gilmor.*

This is hung upon a nail driven into the wall of the school room, and each morning the boy in charge of the "work-list book" makes the proper entry of the transfer in his accounts. This boy is, as it were, the banker for the whole school. He keeps his accounts with scrupulous accuracy, and it is to the honor of the school that no charge of corruption has ever been made against the custodian of a great part of the wealth of the community.

In the autumn, during the corn harvest, the whole school is at work for a part of each afternoon, and almost the whole of Saturday. "Credits" are regularly paid for this labor, and become so plentiful that the total volume of the currency sometimes reaches as high as two thousand. The purchasing power then decreases, for whether a boy has "credits," or is "on the work-list," he is compelled to work. This period of inflation is usually a time of great extravagance, as many boys have not sufficient forethought to consider that winter is approaching, when only those "on the work-list" must work. They recklessly incur "debits" by neglect of their dress, and, until the prohibition of the traffic, they squandered their earnings in apples, candy, and the large ginger cakes known as "life-preservers:" now they buy butter, marbles, rabbits, or another boy's share of dessert. Speculators in these wares rapidly make a fortune, and secure for themselves a winter of ease. As the supreme government always claims a prior lien for its demands upon the property of its subjects, every boy is required first to apply his "credits" to the payment of his fines, or "debts;" and whatever debts he may owe, he must defer settlement until he has balanced his account with the State. The consequence of this regulation is that the boys sell only for cash, and refuse entirely to deal

with those who are "on the work-list." While they are thus never in debt to one another, many boys entirely fail to accumulate any surplus, spending for trifles all "credits" left after paying their fines. Presently work ceases, and "credits" are no longer earned so rapidly: in a few weeks, the more pressing labor of the harvest being over, no one is sent into the fields who has cancelled all his misdeeds. Many boys, however, fail to behave with such immaculate propriety as to cease incurring "debits" at the same time their wages stop. Having laid up no capital by the exercise of a reasonable frugality, it is not long before they are compelled to pay their fines by manual labor; and, as cold weather approaches, they begin to feel like the grasshopper in the fable. Then the difference between the owners of "credits" and those who are "on the work-list" becomes evident. The rich spend their afternoons in skating or sledding, while the poor are grinding corn for the cattle or chopping wood for fires.

The problem of "progress and poverty" thus presented itself to the rulers of our boy-community. The proletarian class, however, obtained an excellent discipline from its misfortunes, and no effort was made to change its condition. On the other hand the growth of a class of wealthy speculators, whose opulence enabled them to break the laws with impunity, was an evil requiring correction. After some years it was found that the older boys amassed such fortunes that they no longer regarded a debit as a punishment; for the owner of two hundred "credits" was not greatly incommoded by the loss of half of one per cent. of his property. So large a capitalist could safely commit one hundred and fifty minor offences before running the risk of having to work as a penalty. The supreme authority then began to regulate the acquisition of wealth by exacting that no boy in any of the three higher classes should receive "credits" from any other boy, but all might still give "credits" away. This threatened to deprive the older boys of all use of "credits" as currency in their sales, and they

cast about for some legal means of retaining the use of this convenient money. They saw that the only object in making the regulation was to compel them to work like the others in penance for their misdeeds, and that this could be accomplished as long as the "credits" they obtained by purchase stood upon the book, not in their own name, but in the name of some boy in one of the lower classes. They then invented an ingenious bank of deposit, by which their hampered commerce was much assisted. Welsh, in the first class, wishing to make a sale, and being unable to receive "credits," in his own name, as payment, arranged with the buyer to make his check payable to Cook, a fourth classman, with whom Welsh had an understanding. When next Welsh desired to make a purchase, he sent his creditor to Cook, with an order, and the banker made the payment demanded, by means of a check in his own name. When the authorities learned of this arrangement, they made no objection, for, however large a fortune Welsh might accumulate in trade, he could not use his balance at his banker's as a means of evading punishment.

The extravagance of some of the boys has led to the development of savings banks. A youngster, whom I will call Stevens, found it impossible, as long as his earnings remained in his own immediate possession, to accumulate any large sums. Having a friend in whose integrity he confided, he made a practice of transferring his "credits" to his friend's account, keeping only a small balance in his own name. In this way he seemed to himself always poorer than he really was, and he was thus able to restrain his extravagance and "save up" for any important object. The banker makes a profit from these transactions, because when only a portion of the school can be employed in the afternoon, the poorer part is taken, and as the banker, with his aggregation of deposits, appears to be rich, he is excused from duty.

While the monetary system thus appears to have reached a high degree of excellence it should be remembered that the machinery by which it operates is all furnished by the authorities of the school, as was the initial idea. If we wish

to see the point to which boys can carry, unaided, a commercial invention, we must return to the "butter" money. In its use we find only verbal demands for payment, and verbal transfers of claims. In the nature of the material there is a bar to an accumulation of currency, though an accumulation of debts is frequent. The perfection of the "credit" system, invented by the teachers, is to be taken rather as a contrast to the imperfection of the "butter" system, of the boys' devising. It is, however, possible that if United States money was altogether absent from the community, necessity, the great mother of invention, might have compelled the boys to use as currency some less defective material than butter.

These observations have been confined to a field so narrow, that they afford an insufficient basis for generalization; and they are recorded here merely for the sake of their suggestiveness as an indication of a new field of study. A review of our facts shows that in the McDonogh School land tenure, legislation, judicial procedure, and industry, are all of a primitive character. Psychological resemblances between children and savages have been noted before, and their importance has been pointed out by both Lubbock and Galton. The former omnispective *savant* some years ago remarked: "The opinion is rapidly gaining ground among naturalists that the development of the individual is an epitome of that of the species—a conclusion which, if fully borne out, will evidently prove most instructive. Already many facts are on record which make it, to say the least, highly probable. . . . Regarded from this point of view, the similarity existing between savages and children assumes a singular importance. . . ."[1] To show a decided resemblance between barbarian political institutions and those of communities of civilized children, would be a long step towards founding a science of Social Embryology.

[1] Lubbock, Origin of Civilization, 505, 506.

# APPENDIX.

An illustration of the tendency of the big boys to assume the powers of the Assembly, and to substitute an oligarchical for a democratic government, is furnished by an event happening in September, 1884. Without any authorization by the rest, two big boys, one of whom was a chieftain and formerly a great land owner, announced the fifth of October as the date of the approaching walnut harvest. Some few conservatives declared this a usurpation, and the members of the debating society, becoming interested in the matter, were induced to issue an address to their school-fellows, asking them to fix the date without regard to this revolutionary action. This document was posted upon the wall of the play-room, and under it was written a number of dates with a request that each boy sign his name beneath the date he favored. This appeal for the preservation of the old democratic method of legislating was evidently irresistible, and the innovators were quick to see that they must change their tactics. Knowing that the debating society was regarded as an exclusive body of "literary fellers," they used this unpopularity to defeat their conservative opponents. As the vote of the entire society, with one exception, was cast for the nineteenth of October, the oligarchs were able to produce the impression among the unreflecting voters that a small organized body was endeavoring to take an unwarrantable part in legislation, and thus they completely turned the tables on the conservatives. The result was an overwhelming majority for the date first announced by the two big boys, who were then able to say that the community approved their course, while at the same time they gained the point at issue.

By way of authorities, I append the address just referred to, and parts of two articles from *The Week*,[1] written by the leaders of the opposing factions.

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[1] *The Week* is a rudimentary journal, the undeveloped organ of the McDonogh Boys, who not only support the paper by contributing short articles on local events of juvenile interest, but even set the type.—ED.

### The Address.

"Having heard that some one had appointed October 5 as the day on which to begin to gather walnuts, and not knowing who had so decided, and hoping that the School will not think we are taking too much into our hands, we propose the following plan:—Let each boy [sign] his name under that one of the following dates on which he should like to begin to shake walnuts, and let the date under which the most names are written be the date on which to begin. And now, hoping the School will see this for their good we give the dates."

Then followed a number of dates, under the first of which, that chosen by the oligarchs, thirty-nine names were written. Another had four names below it, and the nineteenth of October stood above the names of nine members of the debating society.

### An Oligarch's View.

"Several weeks ago two of the boys who gather walnuts, thinking the walnuts had been gathered too soon heretofore, thought they would try to fix a date that would allow the walnuts to get ripe before being gathered. They named the fifth of October as the day, and it was thought that every one was satisfied with it, but on last Saturday night some of the boys objected to this date as being too soon. They resolved to put up a placard and let every boy vote on the subject, and in this way to decide when walnut gathering was to begin. We had always had no special hour to begin in, but did it at any time after twelve o'clock at night, but this party thought it would be better to have a later hour to begin in, and they let each boy vote for the day and hour. The placard was put up Sunday morning, and on Monday the votes were counted, and it was decided that we should gather at one o'clock in the morning of the fifth of October."

### A Democrat's View.

"The society was called to order last Saturday night at 8 o'clock by Johnson, the vice-president. . . . Next, Russell proposed that we put up a placard with several dates on it, and ask the boys to decide for themselves the time to begin shaking walnuts. This was seconded and after several amendments, of which the most important was the one which provided that all members of the society who are interested in the question should try to get as many boys as possible to choose the latest date, it was then adopted. . . . After I had read the form for the placard to the school, and the form had been adopted, the readers took the floor."

### The Instinct of Property.

A striking proof of the almost instinctive nature of the tendency from common to individual property in land, is furnished by Icaria, a French communistic settlement in Iowa. The appearance, in a professedly communistic body, of the same feelings that led to the partition of the common holdings at McDonogh is very suggestive as indicating an impulse in both boys and men toward an institution so closely connected with the progress of humanity as private ownership. I regret that the valuable study of Icaria and its unfortunate Utopians, by Dr. Albert Shaw (J. H. U.), recently published by G. P. Putman's Sons, did not appear in time for me to make use of it in this study of rudimentary institutions. In order to call attention to this one parallel, however, I cannot refrain from quoting here some passages of Mr. Shaw's noteworthy book.

Icaria, in the words of his preface, is an attempt to realize "national, democratic communism," unaffected by the religious forces that give life to such bodies as the Amana Inspirationists. "Prior to 1870, while the families of the community still lived in the log huts, the privilege had been granted each family of using a narrow strip of ground surrounding the house for a flower garden, or the cultivation in any way that seemed good to the occupants of the house, in their hours of leisure. These poor pioneers, with their Gallic love of flowers and gardening, found genuine satisfaction in their bits of ground; and here a vine, there an apple-tree, a tobacco-plant, or a fragrant bunch of garlic were added to the original flower-bed feature. Everywhere else in the community the Icarian motto, 'All for each, each for all,' was the invariable rule. If in the one matter of these tiny plots environing their humble domiciles, the Icarians allowed the idea of '*meum et tuum*' insidiously to enter, and if they found a keener enjoyment in the flowers or the grapes, because of the forbidden but delicious sense of personal ownership, we must not condemn them too harshly, nor impeach their communism. There was something noble and pathetic in the manner with which these '*citoyens*' and '*citoyennes*' put away the accursed thing when they awoke to a realization of the fact that the gardens were introducing a dangerous element of individualism and inequality. This consciousness was arrived at about the time when the first half dozen of the new and commodious houses were built; and it was arranged that whenever a family should leave the hut for a frame house, the wicked garden should be given up and no new ones should be made." . . . ("It is somewhat interesting to note that this Icarian village community, in its tendency to evolve individual proprietorship, began precisely at the same point as the primitive village communities, which maintained common ownership and use of arable lands and pastures and woodlands long after the homesteads and their immediate environment had become individual property.") . . . "Years rolled on, as the novelists say:" . . .

"These citizens still abode in their primitive log-huts, and maintained, therefore, their '*petits jardins.*' To the young party this was a scandal and an abomination." . . . "In the fall of 1877, there was to be a sale of grapes; and a member of the young party proposed that, instead of gathering the fruit in the community's vineyard, there should be a confiscation of the grapes in the three little gardens. . . ."

"All compromises were now at an end." . . . "On the 26th of September the young party announced their fixed purpose to withdraw, and found an autonomous branch on a portion of the domain." A plan of division of the common property was rejected by the "old party," and the quarrel, getting into the civil courts, resulted in the forfeiture of the Icarian charter. (See Icaria, pp. 100–109. By Albert Shaw, Ph. D. G. P. Putnam's Sons, New York, 1884).

XII

# LAND LAWS

OF

# MINING DISTRICTS

"When a new placer or gulch was discovered, the first thing done was to elect officers. In a region five hundred miles long, inhabited by 100,000 people, who had neither locks, bolts, regular laws of Government, military or civil protection, there was as much security to life and property as in any State of the Union. The rights of each digger were definitely marked out and observed."—*Bayard Taylor, in "Eldorado."*

"A special kind of law, a sort of common law of the miners, the offspring of a nation's irrepressible march . . . has sprung up on the Pacific Coast, and presents in the value of a "Mining Right" a novel and peculiar question for this Court."—*Decision of Chief Justice Chase, December*, 1865. *Case of Sparrow* vs. *Strong.*

"The miners . . . found no laws governing the possession of claims. The reason and justice of the laws they framed challenge the admiration of all who investigate them. Each mining district in an area of not less than 50,000 square miles formed its own rules and adopted its own customs . . . guarding against every form of monopoly and requiring continued work and occupation."—*Speech of Senator Stewart, June*, 1866.

"The bill proposed adopts the rules and regulations of miners." They "are well understood, and form the basis of the present admirable system. Popular sovereignty is here displayed in one of its grandest aspects, and simply invites us not to destroy, but to put upon it the stamp of national power and unquestioned authority."—*Report of Chairman Conners, of the Senate Committee on Mines and Mining, May* 28, 1866.

"Whenever institutions have grown up of themselves . . . they become a matter of scientific study. They are part of the general institutions of the English people, as those are again part of the general institutions of the Teutonic race, and those again part of the general institutions of the whole Aryan family."—*Edward A. Freeman, in his "Introduction to American Institutional History," University Studies, First Series, No.* I.

JOHNS HOPKINS UNIVERSITY STUDIES
IN
HISTORICAL AND POLITICAL SCIENCE

HERBERT B. ADAMS, Editor

History is past Politics and Politics present History — *Freeman*

SECOND SERIES

XII

# LAND LAWS
OF
# MINING DISTRICTS

By CHARLES HOWARD SHINN, A. B.

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# LAND LAWS
OF
# MINING DISTRICTS.[1]

In the autumn of 1878 the writer, then teaching school in a little Mining Camp of Trinity County, California, witnessed the practical operations of "rules, usages and customs" in regard to local government over well-defined areas known as "Mining Districts," of which there were a number in the county. One, then newly organized, lay partly within the limits of two counties, but it was governed easily and well by the citizens of the District, according to a code whose more important features had been evolved amid the stress and strain of the pioneer days of 1848 and 1849. County officials

[1] This essay forms a portion of an investigation into the entire history of Mining and Mining Camps, ancient, mediæval and modern, with a hope of giving the forms of social organization manifest in the early "Districts" of the Sierras, Coast Range, and Rocky Mountains, their proper place in the story of institutional development upon American soil. Some part of the material here presented will re-appear in a volume entitled "Mining Camps, a Study in American Frontier Government," which will be published early in 1885 by Charles Scribner's Sons, New York. Portions of this work were read last year before the "Historical and Political Science Association" of the Johns Hopkins University. An article upon "California Mining Camps," in the "*Overland Monthly*" for August, 1884, one upon "The Golden Prime of Forty-Nine" (illustrated), which appeared in the "*Magazine of American History*" for November, and one upon "Enactments of the Early Miners," to appear in the *Overland* for the current month, December, comprise the author's publications in this field.

Mr. Shinn's work is a natural, although unconscious, continuation of Mr. Johnson's study of "Rudimentary Society Among Boys," *Studies, Second Series*, XI. This paper might be called Rudimentary Society Among Men.—ED.

existed, townships and supervisors were parts of the State system, school-districts had been laid out years before, but along Weaver Creek, and in the bends of the yellow and foaming Trinity River, men were still holding "claims" and regulating their business relations with each other by local laws; and in camps further removed from stage roads, county-seats and agricultural communities, the "Laws of the District" covered a broader range, and still dealt with many subjects besides land-tenure. Again, in the spring and summer of 1879, while a special travelling correspondent for the San Francisco Daily *Bulletin*, the writer explored the mining region of the Sierra counties of California, became acquainted with pioneers, and visited many of the famous old camps. Here, also, the influence of the past was, and is, evident in varied and powerful survivals; the institutions that American freemen created in time of need for the protection of life and property, have shown an abiding strength and endurance. This phenomenon of a still surviving and respected local land law deserves more attention than it has hitherto received from historians of the Far West. Viewed in its larger relations, as a curious chapter in the record of social experiments made by men of our Germanic race, the entire Code of the Early Mining Districts, or Camps, has a more than local value. In that Code, with its multifarious variations and eccentricities, its curiosities of legislation, its mingling of forms borrowed from alien races, its underlying common-sense and dignity, there is no department more important than that which was devoted to the acquisition and tenure of mineral lands in the several districts at a time when neither State nor General Government had as yet assumed control.

Before entering upon a discussion of the features which distinguish this department of the Miner's Code, we may say, in general terms, that it is difficult to set forth the supreme importance of laws which govern the ownership of land. The social, economic, and political history of the human race has turned upon the pivot of changes in systems of land

tenure, and here is a battle-ground of the future, as of the past. Nothing which serves to illustrate the workings of any land system, or of any method by which in practice lands were held, can ever be called irrelevant or worthless, for the entire field of study is so broad, and is broken into so many angles that each ray of light is needed for its illumination. The best thoughts of writers of the highest ability have been devoted for many years past to studies of early land tenure under simple conditions of life in primitive agricultural communities, and to the potent social and political causes which slowly substituted private ownership of land for the rule of the village, and the authority of the old Teutonic field meetings. The study of Germanic Land-laws, as taking shape in free discussions of folk-moot assemblies deep in the Swabian Mountains, and as modified in Saxon and Norman England, does undoubtedly appear to offer the most attractive single field of investigation known to institutional history. Nevertheless, we shall find, if we sufficiently examine the local institutions of America, that a contribution of real interest and value has been made to the land-laws of our race, springing into existence naturally, as all such things must, from the character of the people and the exigencies of their situation.

Therefore it is to the American miner of the region west of the Mississippi, that we must look for the adoption, in time of need, of this definite and efficient system of local government for hundreds of small communities known as Mining Camps, or Districts, and possessing under a multiplicity of forms, those essential safeguards of life and property that the true pioneers, from our Aryan stock, have always been able to secure. To-day, over the Western third of the United States institutional life traces some of its most important elements to the cabin of the placer-miner. Indeed, we may fitly call this the only original contribution of the frontiersmen of America to the art of self-government. Sevier and his Tennesseans did indeed organize their tem-

porary State of Frankland, but it soon and wisely accepted the inevitable. Boone and his brave companions, Kit Carson, Sublette, and his trappers and fellow-guides, Bent, Bridger, Beckwourth, St. Vrain, and their "mountain-men," the companies of voyageurs, the bands of fearless explorers of half a century ago, one and all melted away before the westward-hastening tides of civilization without being forced by imperious necessity to the creation of any code of local laws, or to the organization of any system of permanent legislation. The institutions of the older communities already grown into States, had followed too fast in the footsteps of these pioneers. But that army of State-builders who poured out their mighty toil upon the placer mines of the Far West thirty-six years ago, had no sooner pitched their tents beneath the Sierra snow peaks, than they called meetings of "all the freemen of the camp," created mining "districts," elected officers, clothed them with sufficient authority, and ordained laws under which peace was secured and prosperity reigned for years.

The purposes to which this "Study" is devoted are narrow and definite. We are necessarily compelled to an entire neglect of the curious historical development of the modern "Mining Camp" and its prototypes in ages past; we cannot enter upon a discussion of the various modifications of the simplest form of a Camp, ruled by the direct will of its members; with the entire criminal code, and with much of the civil code of the larger Districts, we have nothing whatever to do. It is simply the regulation of the use of land, under circumstances of peculiar difficulty, by laws mutually agreed upon, and in many cases merely verbal, that forms the subject of this investigation. Everywhere we shall find a return to primitive ideas; use is made the proof of ownership, and equality in regard to the size of the various lots is considered of prime importance.[1]

[1] Mr. Henry George, in his "Progress and Poverty," Book VII, Chapter V, has some interesting remarks upon this point.

We shall also discover that the legislative enactments of the Mining Camp cluster with peculiar force about this central question of land tenure. Outside of each mining district for miles extended the unsurveyed government land, like the *Folkland* of the early English. Within the District itself the territory not in actual possession of some miner was in a state analogous to the *common lands* of the village communities, and, although there was seldom any definite statement of the control of the citizens of the camp over this unused territory, yet, as a matter of fact, such control was often and successfully asserted, even to the extent of taking possession of and selling for cash all the unoccupied lots in the village. It will easily be seen that under such circumstances, extending over a number of years, a large body of laws was created, setting forth with great exactness the relations of the miner and his land claim. First, the legal size of a "claim" was determined, then the requirements of legal ownership, next, the conditions whose constant fulfilment was necessary, and the circumstances which would work the forfeiture of all right and title, and, lastly, the methods of procedure according to which disputes were to be settled.

The limit of time covered by the present investigation is the thirty-six years since 1848, for important organizations of Mining-Camps differing in few particulars from those of the "flush era," have taken place within the past few months. Geographically, the field under consideration extends over the mineral belts of the Sierra Nevada and the Rocky Mountains, and includes the scattered camps that lie between. It goes as far south as the districts of the Chiricahuas and Southern New Mexico; as far north as the sources of the Fraser and Saskatchewan. As regards numbers, there were in 1866 over 500 organized districts in California, 200 in Nevada, and 100 each in Arizona, Idaho, and Oregon, or a total of 1,000 small communities, each with its local laws. Since then, the number of districts has diminished in the older mining regions,

and has increased in the newer ones. State and national legislation has in a great degree obviated the necessity for District law, except upon the frontier, but there the Mining Camp ideas still flourish.

The only way in which the land system of the miners can be clearly understood is by a minute analysis and close comparison of the land laws and consequent regulations of a large number of districts. We have obtained from various sources copies of the laws actually enforced for a long period of years in many of the leading camps of various States and territories, sometimes, of necessity, abbreviating their enactments, but omitting nothing essential to a full and fair understanding of the subject. A volume of two thousand pages would hardly be sufficient to contain the complete laws of all the Mining Districts of the Far West. These laws in their complete form are usually concise, well-worded, and clear in meaning; in some cases they were evidently drawn up by lawyers, in other cases by men of good general education, but totally ignorant of law-phrases, and in a third class of cases they are the work of ignorant but practical and much-in-earnest frontiersmen. By far the greater number of districts to whose laws we shall call attention are Californian, because in that State all the essential features of the system were first developed.

The first district to which we shall ask the attention of our readers was situated five miles from Sonora, the county-seat of Tuolumne County, California,[1] and was in one of the richest gold-bearing ravines known to the pioneers of 1848 and 1849. Many nuggets of large size were taken out, and fortunes were made in a few days or hours. The homely

[1] Our authorities for the Tuolumne Camps are in the first place, a very rare pamphlet, "Heckendorf & Wilson's Miners' Directory of Tuolumne County," Sonora, 1856; secondly, the testimony of some ten or twelve of the pioneers of that region, with whom we have corresponded; thirdly, extracts from the early Tuolumne papers, advertisements, notices of meetings, &c.

appellation of "Jackass Gulch" was given to this district upon its first organization in the autumn of 1848. For a time it was one of the most "booming" places in the mountains, and hundreds of ardent gold seekers dwelt there. Verbal laws, agreed upon at a mass-meeting, ordained that the size of a claim should be ten feet square, as in many cases a plot of that size had yielded ten thousand dollars before being exhausted of its precious mineral, and upon that basis of allotment there was enough mining land for all the workers to obtain claims. Written laws were soon needed, and, so soon as the richest spots were exhausted, the size of the claim allowed was by common consent enlarged. In 1851, the Camp Laws, as adopted and enforced were as follows:

*First.* That each person can hold "one claim by virtue of occupation," but it "must not exceed one hundred feet square."

*Second.* That a claim or claims if held by *purchase* "must be under a bill of sale, and certified by two disinterested persons as to the genuineness of signature and of the consideration."

*Third.* That "a jury of five persons shall decide any question arising under the previous article."

*Fourth.* That notices of claims must be posted upon the ground chosen, and must be renewed every ten days "until water to work the said claims can be had."

*Fifth.* That as soon as there is a sufficiency of water for working a claim "five days absence" from said claim "except in case of sickness, accident or reasonable excuse" shall forfeit the property.

*Sixth.* "That these rules shall extend over Jackass and Soldier gulches and their tributaries."

The greatly lessened value of the mining ground in this camp is shown by the increased allotment. The requirement of claim-notice renewals during the idle season, when there was no water obtainable for washing the auriferous gravel was common in most of the camps unless a miner lived upon his claim. In more northern camps the winter, not the summer, was the season when claims lay unworked.

In all the Mining Camps the duly accepted "claim-notice" must be "good and sufficient," but if it was dated, signed, and contained the clause "in accordance with the laws of this district," it was a legal notice. Some camps required it to be "written with ink," others "painted on wood or other durable substance;" some prescribed that the "claim stakes," one at each corner of the claim, should be "four feet high and five inches square," and that at least two of them should bear "legal notices." The following examples of peculiar and amusing notices that, although legally deficient, were accepted in their time, have been furnished me by pioneers:

"*Clame Notise:* Jim Brown of Missoury takes this ground jumpers will be Shot according to the Laws of the Timbuctoo District."

Another equally sanguinary one, although not such an unconscious slander on the district laws was couched in these terms:

"*Notis*—to all and everybody. This is my claim, fifty feet on the gulch, Cordin to Clear Creek District Law, backed up by shotgun amendments."
(Signed) "THOMAS HALL."

Here are a few others:

"*Notice.*—Our claims, in this district, according to regulations."
(Signed) "PHIL. MAZEY."
"JO. HODEN."

"*Taken.*—This is my Honest Claim of ten feet each way."
(Signed) "ANDREW PESANTE."

"*To Miners.*—Look further. Respect my claim stakes driven by the rules of Douglas Bar." (Name illegible).

A claim notice of a far more definite nature than these primitive types was posted in San Andreas District, Calaveras County, in 1862, and reads as follows:

"*Notice.*—The undersigned claims this ground for mining purposes, known as the Robert McCall claim, being a deep or shaft-claim, and bounded on the northwest by the Gilchrist and Cornwell claim, and on the southeast by the Plug Ugly claim, and he intends to work it according to the laws of the San Andreas Mining-District." (Signed) WILLIAM IRVINE."
JOHN SKOWALTER, Recorder, August 18."

A Colorado newspaper reports the following as a claim location made in 1883 in one of the Gunnison Districts:

"The undersigned claims this lede with all its driffs, spurs, angels, sinosities, etc., etc., from this staik a 100 fete in each direcshun, the same being a silver-bearing load, and warning is hereby given to awl persons to keepe away at their peril. Any person found tresspassing on this claim will be persucuted to the full extent of the law. This is no monky tale butt I will assert my rites at the pint of the sicks shuter if legally Necessary so taik head and good warnin. Accordin to law I post This Notiss.—JOHN SEARLE."

Returning to the "laws of the camps," we remark that a great number of variations upon minor points appear. The "Right to purchase other claims" allowed by Jackass Gulch was denied in many other districts. The mode of settling land disputes, also, differed much, even in contiguous districts, but arbitration was a favorite system. Springfield District, whose leaders were men from New England, trained in town-meetings and local self-government, was able to create an organic law far superior to that of Jackass Gulch, although not more than ten miles distant. We have no record, nor reliable tradition of the first year of the camp except that "it was orderly." But they adopted laws in written form at "a mass-meeting of the miners April 13, 1852," and this Code was revised August 11 of that year, and again December 22, 1854.

After describing the boundaries of the district with unusual minuteness, the Preamble (of April, 1852) proceeds to declare: "That California is and shall be governed by American principles." . . . "And as Congress has made no rules and regulations for the government of the Mining Districts of the same, and as the State Legislature of California has provided by statute and accorded to the miners of the United States the right of making all laws, rules and regulations that do not conflict with the constitution and laws of California, '*in all actions respecting mining claims*,' therefore we, the miners of Springfield District, do ordain and establish the following Rules and Regulations."

Immediately following are sixteen long and precise articles referring to land rights and the settlement of disputes. The size of the claim is fixed at one hundred feet square, no person, under any circumstances, to hold more than one such claim. Upon this claim work must be performed at least one day out of three, during the entire season for mining. Each claim must have good and substantial stakes at each corner, and "must be registered and described in the book of the precinct registry," to which the owner or owners shall sign their names. Several persons, each owning one claim, may concentrate their labor upon any one claim if they deem it advantageous.

Disputes are to be referred to a Standing Committee of five miners, or to any member or members of this committee, as "arbitrators," or a "miners-jury" may be summoned. "Each member of the Standing Committee shall in each case be paid two dollars for his service." It is easy to see that in many cases one arbitrator could decide a case as easily as could five, and at much less expense. The laws proceed to further define the process of arbitration. The head of a committee is to be sworn in by a justice of the peace, "provided such an officer be appointed in this mining district," and is to administer the oath to his associates, and to the witnesses. This oath was of the form: "You swear, (or affirm) to honestly and truly arbitrate without fear or favor, between the parties in all disputes that come before you for decision." It is also declared that the verdict arrived at, whether by jury trial or by arbitration, must be received as "conclusive and binding upon the parties thereto and be deemed and considered final in all such cases." Either party may compel the other to come to trial by full board of arbitration by giving him three days' notice of time and place. Costs shall be paid in the same way as in Magistrates' Courts. Disputes over water privileges are especially named for arbitration.

The desertion of a claim for thirty days during the working season, of six or eight months, resulted in "forfeiture without

remedy," and if the claim was a valuable one, some watchful person would probably take legal possession at exactly one minute past midnight on the morning of the thirty-first day. Such cases occurred very often in the mines.

Article thirteen of this Springfield District Code reads as follows:

"No person not an American citizen, or where there is any reasonable doubt of his being entitled to the privileges of an American citizen, shall be competent to act on any arbitration or trial by jury."

The next article provides that "companies which go to great expense in running tunnels" are allowed "two claims for each member of the company." The first code of "Tunnel-Claim laws" adopted in this region was several years later, January 10th, 1855, and it then defined a legal tunnel claim as "one hundred feet along the base, and running from base to base through the mountain."

Article fifteen provides for the election of a district recorder "who is to have fifty cents for recording the title of each mining claim."

The last article provides that "all claims held by foreigners who have failed to secure their State license" shall be forfeited. This was a provision intended to aid in the enforcement of the State Act of April 13th, 1850, imposing a tax of twenty dollars per month upon all foreign miners.

Jamestown District, a few miles from Springfield, contained a large number of Southerners and Western Men. It was an orderly and well-managed community, ruled by "Miners' Meetings" convened once in six months, with an occasional "special meeting." In 1853, "several persons having attempted to pass unpopular laws," the miners held a rousing assembly, repealed "all previous laws of every sort whatever," enlarged the bounds of their district so as to include a number of outlying claims, adopted the usual standard size of one hundred feet square "in place of the previous and varying regulations," and declared that "all claims secured under former laws" were publicly acknowledged as legal.

Within three days after the time of location a claim must have a ditch one foot wide and one foot deep cut about it; notices must also be posted, and stakes driven at the corners. Failure to work a claim within six days after the mining season begins, causes forfeiture. A miner can hold other claims only upon proof of purchase. Miners shall have the use of water from the ditches "according to the date and situation of the location of their claims."

An important and very significant clause, is to the effect that "miners may dig up any farm, or enter within any enclosure," by giving the owner security "that they will pay all damages inflicted." In no case, however, shall they dig "within twelve feet of a building, or obstruct the entrance." Mining was held to be the paramount industry, and the miner's possessory claim outranked that of the agriculturist. Payment of damages meant only that growing crops and improvements should be compensated for if destroyed.

When this camp was first established, in August, 1848, its wealth was so abundant that a trader sold a handful of glass beads to an Indian for about $6,000 in gold-dust; and for some time in this and adjacent camps men wandered over the hill-slopes plucking up tufts of the coarse "bunch-grass" and shaking off the soil in buckets, often thus uncovering rich "pockets." The same thing was done in Australia and Brazil in the early days of the "placers" and the "dry diggings." The irregularity with which gold is distributed, even in rich districts, makes the dignity and minute enforcement of the camp land laws all the more remarkable as a triumph of the Anglo-Saxon capacity for self-rule. Hundreds and thousands of times, in camp after camp, "ill-luck" seemed to follow one miner, while "good-luck" was another's constant attendant. One old pioneer writes me from Idaho, after a quarter of a century spent in placer camps, that he has "tossed up" with a miner for choice of ground, the two having arrived on the spot at the same time, and has chosen the upper claim, and "failed to make wages," while the other man "took out five

thousand dollars from a space twenty feet square and four or five feet deep." Of course there was claim jumping at times. All laws are occasionally broken by unruly members of the community, but an impartial historian of the Mining Camps is forced to declare that these infringements of individual rights were in most cases punished with terrible severity by the citizens. The famous "Holden Garden Claim" fight, near Sonora, Tuolumne County, about 1852, is a case in point. A very rich ledge of gold-bearing quartz having been found by some gardeners in their "cabbage patch," was "staked out" by them, and work begun. A party of gamblers in the town started for the place, and attempted to take possession—did in fact hold the ground for a few hours, but the citizens took a hand, drove them off, and restored the property to its rightful owners, after a skirmish, in which one or two men were killed and several wounded.

To return to our synopsis of the special laws of various camps concerning land and land matters. We next take up a small but very active California district, "Shaw's Flat." In this camp there had been much trouble from the attempt of several miners to run the lines of their claims so irregularly as to include more of the good mining ground than they were entitled to. This was an early difficulty in hundreds of camps, human greed and selfishness being distributed with considerable evenness, in camps, as in cities. Men tried to establish the legal idea of a right to forbid others from trespassing on their "claims." This failed utterly; in every camp, without exception, the fact that a prospector had occupied the mouth of a gulch or cañon, gave no right whatever to forbid others from "highway privileges" across his claim. The miners of the Sierra would have laughed to scorn any such right. Pastoral land claimants in the West have often monopolized and controlled thousands of acres of land by the mere location of a "warrant" on a section that contained the springs, or was the gateway of a precipice-guarded valley. But never, in all the mining history of the Pacific Coast and

Rocky Mountain region, did any prospectors succeed in this fraudulent extension of the "possessory right" to use land. "Shaw's Flat," and other districts settled the difficulty, by ordaining "right of way," everywhere; and by insisting upon the "square location," except in a few well-defined situations.

We are speaking, it must be remembered, of placer mines, not quartz-leads, to whose holding a somewhat different law, evolved partly from the placer usages, and partly adopted from the experience of other races, was applied. Quartz-ledges in the United States, follow this oblique location theory; the ledge itself is the property and may be followed to any depth. In Mexico, the square location system is the one adopted for quartz-mines as well as for placers. The true placer claim is so much surface, and to bed-rock, or beyond as far as crevices that may contain gold can be found to extend. We find, therefore the usual clause "in one lot, and square in form," which prevents the prospector from conforming his claim to the outline of the gulch. Sometimes, when the width of the stream is uniform and the sides of the ravine nearly parallel, the clause reads: "shall be uniform in width, and extend from bluff to bluff," or, "shall run across the width of the gulch." So narrow and deep are most of the wild mountain gorges in which the miners toiled, that it appears likely that the typical camp was of this latter form—a long line of men extended for several miles up and down the ravine, and returning at night across each other's claims, to the little collection of tents and cabins, saloons and hotels, and motley adventurers, that was the "Camp," the district town, the temporary metropolis, perhaps, of half a dozen surrounding camps, but doomed to sudden downfall the moment the gulch was "mined out," or even long before, if a richer place was discovered elsewhere.

At "Shaw's Flat," a "legal claim notice" was sufficient to hold a placer 40 feet square, for ten days after work was begun in the district, counting from midnight. "Part of a

company" could not presume to "hold the claims of a whole company during the absence of any of its members." There were to be no non-resident stockholders, no taking up of claims in the name of distant friends and relatives. If a man left a district for the working season he must sell his claim to some one who would utilize it. The "Camp law" held that a "company" was but an association of men whose capital was their own work, and who found that their claims could be handled better thus. The development of this idea in a few years, in the mines, to a point when associated capital constructed some of the most remarkable of engineering works, and brought water for hydraulic purposes, ten, twenty and forty miles over the most broken and difficult of regions, would of itself form a fine theme for an extended essay, but the subject is foreign to our present purpose; we have only to deal with the primitive forms of the "company" idea in the mines, and in most of these no truly associative and representative element was recognized as inherent in a "company." Some interesting exceptions, however, have been noted, and we shall call attention to others in the course of this investigation.

The laws of "Shaw's Flat" proceed, further, to provide that all "deep diggings," where "pay-dirt" is 25 feet from the surface can be "laid over without work from December 1st, to May 1st, if they are only well defined by marks and stakes, so that no difficulty need arise," and also "are recorded in the district register which shall always be open to inspection." The point involved here is the desirability of giving constant employment to every citizen of the district; "surface," or "flat," or "river," or "bar" claims were worked when water was abundant; deep claims were "drifted," and the "pay-dirt" carried down to the streams or springs, and then washed out, for which there was sufficient water even in summer. Sometimes they could be worked in winter too, but no one wished to do that; for he wanted some occupation when the water ran low in the channels, and the rockers could

no longer be swung. In this district the annual meeting was attended "by all claim owners" unless they made "a reasonable excuse." This reminds one of the seventeenth century local laws of New England towns. In Farmington, Connecticut, for instance, whose old town records, the writer had occasion to study the last summer, it was ordained two centuries ago, and more, that whosoever failed to attend the annual town-meeting on him a "fine of twelve pence" should be laid, no light matter in those days. And in the ten or twelve California districts, of 1849-54, wherein we discover special clauses intended to strongly enforce the duty of each and every miner to attend the annual and semi-annual meeting, the New England influence is apparent, the names of prominent men in each camp are New England names, or in some phrase of the enactment itself, the link is clearly shown. For instance, there is a forgotten camp near Piety Hill, Shasta County, long ago swept from existence, not a house, or cabin, or tent pole, or wheelbarrow, left to mark the spot, only vast gravel mounds, vast heaps of hand-piled bowlders, vast cuts in red clay, now overgrown with pines. Here the "Camp" had a "committee man," the head of a committee of five, to settle disputes, record claims, and preside over special meetings.

Four small districts of 1850, "Saw Mill Flat," "Brown's Flat," "Mormon Gulch" and "Tuttletown" had laws that were much alike, and at one time there was talk of uniting them into a "confederacy," together with several adjacent camps, all in Tuolumne County. That is to say, tradition and the memory of old settlers, reports that the scheme went so far that delegates met, and talked the subject over. They reported, "There's no money in the plan; if we wanted to dig a ditch in common we could easily unite for that, but our laws are sufficiently uniform to prevent annoyance." Two of these districts begin their laws with: "Whereas this district is deficient in mining laws and regulations, and disputes have arisen, therefore we, the miners of ——— District, in conven-

tion assembled, do pledge ourselves to abide by the following laws." "New diggings" in the vicinity of an established camp, are always much desired, so we find here as in some instances previously noted, that the discoverer of such is rewarded with a double claim. The Carthagenians used to build temples to those who found new mines, and paid them honors after death, but the rightfulness of giving to such a double share in the mining ground, was not recognized, so far as we can discover, until men of our Germanic race began to organize into mining communities. Some few of the California Camps felt that a treble share of the gold-streak was none too much for the discoverer, and one instance of a larger allotment has fallen under my observation, that of "Poverty Hill," where four times the usual claim was allowed.

"Saw Mill Flat" when first organized, about 1850, provided for a committee of three persons, chosen by the miners in general assembly, to "see that the laws are obeyed," and to "call meetings of the miners of this precinct to enforce the laws, or whenever for any reason they deem such a meeting necessary." The arrangements made for "arbitration" in this district were minute and definite. "Whenever any dispute shall arise respecting claims or water privileges each party shall choose two disinterested persons, the four thus selected shall choose a fifth, and the five thus selected shall then hear evidence, according to the laws of the precinct. The law of "Brown's Flat" ordains that these five arbitrators, instead of being chosen by the disputants in the above manner, shall simply be "appointed, whenever needed, by the committee" of three duly elected persons who ruled the Camp. And they were especially enjoined to "view all disputed territory," and to "summon and examine witnesses" when necessary. This "Brown's Flat" committee was chosen in public meetings "to hold office until superseded." Its powers and privileges were about the same as at Saw Mill Flat. Sometimes the arbitrators failed to give satisfaction in

these camps, or found the case on which they were called to act so difficult or obscure, that they retired promptly. What then? In less highly organized camps, still governed by successive impulses of popular will, a meeting would be called, and the case stated, *pro* and *con*, to the assembled claim owners; but camps where "committees" ruled made these committees the "Courts of Appeal," and if arbitrators retired, or if their decision was disputed, the "Committee of the Camp" was called upon. No case of a still further appeal to the State or County Courts, then in existence, can be obtained. The final decision came from the camp authorities. Nor were these decisions matters of small account, for property worth several thousand dollars was often involved, and its ownership was settled in one afternoon's visit from the arbitrators; to such an informal affair had the administration of justice been reduced.

The Tuttle-town laws say that "no person shall ever hold more than two claims in this district, either by purchase or otherwise;" again, an admission of the plan of having separate claims for summer and winter. They also provide, with much circumlocution and elaborateness of detail, for the marking of each claim, and ordain that "any one who destroys a notice or claim stake shall be fined not less than five dollars nor more than fifty dollars." To this some of the northern camps added, "and upon a repetition of the offence, shall be requested to leave the district;" of course, in that case, forfeiting his claim. Tuttle-town required that written notices of claim locations should not only be placed on the ground itself, but must also be posted "in some convenient and public place in the district." This place in nearly every case was the door of the "leading saloon" of the town, or the trunk of some large tree in front of that building. In "Hay Fork," Trinity County, in 1879, also in "Middletown," in the same county, and in "Ophir," Placer County, in 1881, the writer saw "notices" of placer and of quartz locations posted in this manner, signed by the deputy of the County Recorder,

and "in accordance with the customs of this district." A common way of putting up a claim notice is to burn it with a red-hot iron upon a slab of pine or cedar, preferably the latter, and if this be then nailed with blacksmith-wrought nails to a tree, it withstands many seasons of sun and storm. Such "claim writs" yet remain in some of the California cañons; saloons where hundreds congregated have mouldered into dust, and over the rude chimneys of miners' cabins, blackberry and clematis vines tangle, pink wild roses and scarlet mimulus blossoms glow; while the scorched bit of cedar shingle is the most conspicuous evidence of the stormy past, when this wild ravine, now a solitude, held a frontier settlement of perhaps a thousand able-bodied miners, who partitioned out every foot of its soil.

Three other districts of which we have obtained copies of the early laws made by pioneers were "Poverty Hill," "Chili Gulch" and "Yorktown," all of them organized early in that "golden prime of Forty-Nine," of which the mining ballads of the Far West speak with such rapture. If it were part of our present task to deal with the general institutional relations, history and literature of mining camps, the little group of a dozen such settlements in Central Tuolumne would afford materials for many chapters. Here, within a radius of ten miles, were camps differing from each other in many important respects, as regarded civil code, criminal code, character of population, and form of government. It is easy to believe that if State life had been delayed but a few more years, if territorial forms had prevailed for a time over the broad California gold fields, these highly vitalized communities would have crystalized into much more permanent units. Even as it was, the uncertainty of mining life, the sudden downfall of flourishing camps, was the cause, far more than State organization, which prevented the growth of permanent geographical and political divisions other than townships, within the county. "Tuttletown," and "Brown's Flat," as we have seen, had their "committee rule," but "Chili Gulch,"

"Yorktown" and "Poverty Hill," went to old Spanish and Mexican law, and gave obedience to elected Alcaldes, whose rule was almost absolute, and from whose decisions there was no appeal except by revolution. Here were camps with but a ridge of quartz-ribbed, pine-crested hills between—and while some looked to New England and the depths of the Odenwald and the Black Forest for the source of their scheme for settling land disputes, others, equally well governed, looked to sources Castilian, Moorish and Arabian. Yet it is a matter of history that Americans ruled in all alike, though adopting different methods, governing "Chili Gulch" as fully as "Tuttletown."

The laws of "Poverty Hill" limited deep diggings to claims of thirty feet square on new ground, and of fifty feet on ground which had been once worked. A claim must be occupied and fairly opened for mining operations within three days after posting the notice, and absence from the claim for a period of ten days during the working season "throws it open to re-location as an abandoned claim." This camp was "named by contrary," for it was a remarkably rich gulch, and its "claims" were seldom or never forfeited by the fortunate possessors. The practical working of Mining Camp land laws in reference to the forfeiture of "claims" can easily be understood. They were rude tests of judgment and perseverance. Claims that afterwards proved the most valuable on a stream were often located, abandoned, relocated and again abandoned, before any one came along who had the "sand," to use a peculiar Westernism implying "grit," and who staid by his work until "bed rock," and a rich reward were reached. Good and successful miners have told me that their rule was to try every abandoned claim and follow their own individual opinion about the "prospect," regardless of the fact that the expired "notices" of a dozen former owners might be scattered over it.

Two other districts that presented interesting features were "Gold Springs" and "Chinese Camp." The former "ear-

nestly recommended arbitrators," but did not consider them "essential," as a camp jury "might be called." It required all miners to pay strict regard to the condition of roads in the district, also to horse-back trails, accustomed foot-paths, and "not to destroy them in mining operations" without replacing the same by new ones. In other words, if the people of the district were using a path, or street, or roadway across a miner's claim, he must not undermine or destroy it without preparing another on the hillside, or in some convenient way around the place of operations. This principle, also, forms an extensive subject for legislation in the early camps, and takes varied forms. The difficulty was to enforce it; men would wash a road-bed into the creek, and then protest that they had not made a cent, and perhaps move out of the district before the Committee or Alcalde could serve a legal notice upon them. Some later camps obviated part of this difficulty by enacting that the new road "should be made ready for use according to public satisfaction, before work was commenced on the claim crossed by the old road." The sites of many of the towns in the mines have been "drifted" from end to end; towns have been moved, and every foot of the soil on which they stood "staked off" and mined; streets have been pre-empted, and highways used for years have been made "mining property" by the accident of a sudden pick blow or land slip.

"Chinese Camp" allowed its chief officer the munificent reward of three dollars for each decision in a land dispute, and also his mileage of one dollar per mile for the distance from the central point of the camp to the disputed claims and return. There was a time in some of the earliest camps when fees were much higher, amounting in some cases to one ounce of gold dust for each case tried, and even to two ounces, (thirty-two dollars,) but mileage was nowhere adopted until after 1858, and by that time one or two dollars was considered an ample fee in most cases.

There was no more characteristic district in California, than that of Columbia, in Tuolumne, and its complete laws

will be found in the Appendix. This district included "Yankee Hill" and several other lesser camps, at first separate, so that it presents an example of union. March 27th, 1850, five New England prospectors, three of them from the woods of Maine, discovered the famous "Kennebec Hill" placer deposits, and within thirteen days there were eight thousand miners in the new camp, saloons, hotels, stores, and all sorts of human parasites of the actual workers of this mushroom city. Fourteen days from the day of discovery a meeting was called "to organize and govern this camp." "Alcalde," "sheriff," "register of claims," were the officers and the fees collected by the latter paid all the expenses of the organization. In 1852, the united district polled more than twelve hundred votes. The laws adopted were enforced and the place was noted for its orderly appearance.

A very interesting feature of district organization is shown in the course sometimes taken when the surface mines began to fail and more water was needed, through "mining ditches." Associated capital constructed these at a later period, but several districts in the southern mines prolonged their existence by the simple process of forming a "work-stock" company in which there were as many shares as the estimated number of day's labor required to construct the needed aqueduct. Then it became a matter of local pride to do one's share, and the several lesser camps along the line of the proposed ditch sent out all the men that could be spared to take part in the work. Details are unfortunately lacking, but the general system was as outlined. In 1855, several hundred miners from Columbia aided in the construction of such a ditch.

Little Montezuma camp kept apart from its neighbors, and allowed each miner to locate "three squares of one hundred feet each," together or separate, as a "surface claim." Its regulation Tunnel Claim was one hundred and fifty feet in width, and of any depth desired. Its "deep sinking" or upland claim was one hundred by three hundred feet; in

other words, it differed from the surface claim in only one particular—that the "three squares" must be contiguous. One week was allowed for recording, and three days' work each week was essential to the end of the chapter. The "Recorder" may be at any time deposed "by a two-thirds vote of the resident miners of the district." Curiously enough, he is also "Arbitrator-in-Chief," presiding over the "Arbitration Court" of four members, two chosen by each disputant, and he casts the deciding vote in case of their failure to agree. Fees as recorder, one dollar per entry; as arbitrator, one dollar per case; cost of a decision to two disputants, two dollars and a half apiece, and no more—this in gold-dust, weighed out at the valuation of $16 per ounce. If one of the disputants "backs out," refusing to select his men, or refuses to abide by the decision, the Recorder is empowered by the district to declare and enforce his judgment as final. Of course he can only appeal to public opinion, call a meeting, and ask for endorsement and deputies. But to this complexion matters never came. The Recorder ruled in peace so long as the camp had any existence.

As late as 1856, the thriving "French Camp" district in Stanislaus County provided for three, or five, or seven arbitrators, as the disputants chose, and added this Spartan mandate: "In the event of any parties not acknowledging the decision, then the miners of this district shall meet and compel said party to recognize the umpire's decision."

Sweetland Mining District, Nevada County, was organized in 1850, claims then being thirty feet square, two years later these proved too small, most of the valuable ground being exhausted, and, after many debates, the size of claims was fixed at 80 by 180 feet. It is impossible to ascertain why this particular size was chosen, unless the explanation that one pioneer gives that this was about the equivalent in value of the earlier allotment, be the correct view. This was in 1852, and the next year the miners met and decided, because of local differences and disagreements, to divide the district

into three, each of which thereafter made its own laws. North San Juan was one of these districts, and has been famous ever since, for its enormous hydraulic operations. In 1880, the writer spent several weeks along the "San Juan Ridge," visiting the dozen or more small towns where mining was being carried on, and where, although great corporations held most of the valuable ground, much of the old "district law" still survived, and picturesque tales of the past were abundant and realistic in the extreme. The early codes of this region, now only existing in tradition, allowed but one claim to each miner; at a little later period "one claim by right of location," and an unlimited number by purchase. The "notice" must be renewed "every thirty days," unless this necessity is obviated "by the daily presence of the owners or their proper representatives." An expenditure of $500 in prospecting into, or opening up a claim, is counted as possessory work for two years. The quartz laws of this District, and others in Nevada, merged into the county "quartz code" adopted at a general convention of the miners.

The earliest placer claims in Nevada County were ten feet square, a few weeks later they were increased in size to "fifteen feet on the river," although the size soon varied even in adjoining Camps. At "Brush Creek," whose placers yielded over three million dollars, the size allowed was "a square of sixty feet each way." A chapter could easily be devoted to the early history of the famous camps clustered about Grass Valley and Nevada City. The late Benjamin P. Avery, a brilliant, earnest and much-loved man, whose literary powers were late in ripening, and whose life, by reason of its large plans, was pathetically unfinished and uncrowned, wrote a letter, years ago, to the editor of a little Nevada County Directory, giving a graphic account of the early history of that famous network of camps. It was in October, 1850, that he started from Mormon Island, now Sacramento County, on a prospecting tour to Redding Springs, now Shasta City, and several hundred miles distant. He

"rode a little white mule; pork, beans, hard bread, and blankets packed behind." Hearing of "pound diggings," or those yielding some $200 per day, he changed his course to Gold Run. At that time Caldwell's Upper Store, now Nevada City, flapped its canvas sides, and protected, to the best of its ability, a slender stock of dollar-a-drink whiskey, and dollar-a-pound flour and biscuits. Down on the flat were a few tents, and the bars were being worked with dug-out cradles and wire and rawhide hoppers. Pork was $2 a pound and boots cost $80 or $90 a pair. Mr. Avery found good diggings, and returned for his companions, but when they arrived the entire gulch was "occupied by long-haired Missourians, who had staked out their thirty-foot claims, and were taking out their piles. At night many a long-tom party took a quart tin pail full of gold to their cabins."

Those were the times when it cost two dollars and a half to have a letter carried from Sacramento to the camps, when Mrs. Stamps, the wife of the first elected Alcalde of the region, and her sister, were the only ladies in the county, and when lawlessness was quickly suppressed, and the steady increase of social and protective organization was everywhere manifest. The first Alcalde of Nevada City was elected by a voting population of 250, but in many camps ten or a dozen men chose this peculiar and all-powerful officer, giving him all the powers, granted under the Mexican and early Spanish system. He became the judge of the village, the petty lord of the tented town, and only the voice of the people could bring his powers to an end.

The flush mining camps have often been described, with their curious Sabbath-day mingling of ministers, gamblers, auctioneers, dog fights, and street sales, all concentrating about the gorgeous saloons, where monte, faro, roulette, poker, vingt-et-un, and other games of chance were in full blast. There were Indians, Mexicans, Chilians, Hawaiians, Asiatics, Europeans, Yankees, Westerners, Southerners, men fresh from their claims, still begrimed with auriferous mud; men

dressed in the latest fashions of Paris, each one of them all measured in that virile, sinewy community for exactly his worth of manhood. But tales of daily life in the camps are not so frequent.

There is a story told about Main street, in Nevada City, California. In 1851, some miners began to sink a shaft in the middle of the street, and in the most important business centre of the town. Expostulations, long continued, were of no avail. "Miners' rights come first," the intruders said, "and there is no law 'gainst diggin' in the street, an' we mean to dig." The storekeeper whose property was most in peril went into his store and returned with a loaded and cocked revolver, which he pointed grimly at the miners, already neck-deep in their shaft.

"Then I'll make a law," he cried. "Just you boys go back, and hunt up a rich gulch. No gold here; plenty of lead."

"That's good law, Judge," responded the leader. "Better'n the average Supreme Court decision. Boys, let's fill up the hole, and start for Last Chance, or Timbuctoo." A later tradition reports that the party "struck it rich" a month later, and sent a nugget in remembrance to the irate citizen who drove them from Main street.

Gold Flat, also in Nevada County; was rather a typical camp. In August, 1850, only two cabins were on the ravine; in July, 1851, over 300 miners were living there; in 1852, it was "played out" and abandoned. Moore's Flat discovered in 1851, held 500 miners before the close of the year. Orleans Flat within a year after its settlement boasted of several hotels and a voting population of 600. Grass Valley itself, which in October, 1850, had but fifteen cabins in sight, was multiplied more than tenfold within five months, and in five years had a population of over 3,500. Little York, prospected in 1849, had its "flush times" in 1852, when "pay dirt" that "ran a dollar to the pan" was discovered. The miners met, laid out a street, declared it sacred to town pur-

poses, and ordained that each claim owner should be entitled to a building lot in the town. Washington Camp, settled late in 1849, contained 1,000 miners by August, 1850, and before January, 1851, there were more than 3,000 miners in that region, governed by laws of their own devising, and divided into several districts.

Rough-and-Ready, another celebrated mining camp, had most of its auriferous gravel claimed by two "companies" who discovered the placer, organized, and tried to exercise rights over a large tract. They sent to the Atlantic States to hire workmen, under contract for a year. Long before these men arrived, hundreds of "prospectors" had calmly and peaceably taken possession, and divided up the gravel beds according to its usual camp regulations. Without a shot being fired, the entire monopoly scheme vanished into thin air, and the twenty original discoverers considered themselves lucky to be allowed to hold claims of the same size as those of later arrivals. At a little later period in this camp, the process of consolidation of claims began with great energy, and about thirty "companies" were thus formed to work the deeper deposits. One of these "associations" of ten persons took out $400,000, in two seasons, from their ten claims, worked as one.

Among other early Camps of Nevada County whose land laws were strict, and well enforced, were Keno, Boulder Bar, Brass Wire Bar, Lizard Flat and Poorman's Creek. The entire gold product of the Nevada Basin, which surrounds Grass Valley, during this era was not less than $30,000,000, and every dollar of it was taken from claims whose possession was regulated by camp law and public opinion, and by no outside force whatever.

Coke's "Ride over the Rocky Mountains" (London, 1852), contains some good illustrations of early district law. In the Mariposa Mines, which the author visited, the local enactments made the size of the claim thirty by one hundred feet, and claims of this size changed hands frequently,

as high as $2,000 being sometimes paid for one such "possessory right." "Societies" had been organized in several cases to work mineral ground in common, and a number of quartz mines were in operation. The camps were orderly and well-governed.

Another English observer[1] gives a vivid description of life in the mining regions. He speaks of "Murderer's Bar," the swift river, the black, obstructing rocks, the village-tents of sun-bleached drilling, the miners waist deep toiling to turn the course of the river, others in pits, digging to bed rock, some alone, some in companies; all life, vigor and determination. He says: "Every digging has its fixed rules and by-laws. All disputes are submitted to a jury of resident miners. In certain cases twenty men or so from one camp are met by a number from another camp." He goes on to say that disputes sometimes arose, and even demonstrations with firearms, but that good sense always prevailed. To this endorsement, he adds: "I have had my placer claim of ten feet square encroached on, I appealed to the crowd, and a committee of three being at once chosen, measured it from my stake, and being found correct, the jumper was ordered to confine himself to his own territory, which he always did."

The number of mining districts which organized at an early day, under definite regulations and arbitrators or committees for settling disputes, was very great. There were Jackson, Sutter Creek, and Volcano, in Amador; Placerville, Mud Springs, (which as late as 1863 had provisions for arbitrators) Georgetown and others in El Dorado, Cherokee, Nimshew, Hungarian Hill, and others in the Northern Mines. Bangor, in Butte County, allowed one hundred feet in width, "from rim to rim" of the deposit (1862). Forbestown, in the same county, allowed ravine claims one hundred feet wide, extending across the gulch, and required two days

[1] Mr. Frank Marryat: "Mountains and Molehills." London, 1855. (Illustrated with great vivacity by most amusing sketches of Mr. Marryat.)

of work per month (1863). An adjoining District only allowed claims of half this size.

Copper Cañon District in Calaveras County, organized in 1860, required claim stakes at each end and claim notices renewed yearly; one day's work each month; visit from the recorder and registry essential to perfect title; arbitration a law of the camp. Another Calaveras Camp, "Pilot Hill," after passing through the earlier stages of small plots of land, settled upon fifty feet by one hundred and fifty feet as the proper size for "gulch claims;" two hundred by one hundred feet for "surface claims;" and for "each tunnel or shaft claim," one hundred feet in frontage, extending through the hill. Upon the last class of claims work to the value of $25 per week, as decided by the personal inspection of the Recorder, must be accomplished by each company. "Occupation and use" is sufficient to give possessory rights to the other classes of claims.

New Kanaka Camp, Tuolumne County, affords another instance of a personal inspection by the recorder of the work done, to see if it were sufficient in quantity and quality. There can be no doubt of the weakness of many camp regulations in this respect. The practical safety in thriving camps was that non-compliance with the laws might end in the entry of a claim jumper with the plea: "Forfeited, and open to pre-emption."

In some small camps near Pilot Hill the practice was to mark claims not merely by "notices," but also by stamped tin tags, put on by the recorder "in the presence of witnesses," and bearing the owner's name and the date of his pre-emption.

The Brown's Valley Camp, a busy settlement in Yuba County, now chiefly an agricultural and fruit-growing district, presents some unique features in its system. The size of claims, the amount of work to be done, and the general form of government do not differ materially from those of adjacent camps, but on several occasions the miners appear to have had "political struggles," and laws that one party passed

when in power were repealed by the other at a later date. In 1853, therefore, the Camp resolved: "That each claim shall be entitled to one vote in the miners' meetings of this district, by the proper owner, or may be represented by a power of attorney from the proper owner." The nature of this power is closely defined, and limited to specific directions on definite subjects of dispute. It is further declared that claims must be forfeited if they fail of representation at the semi-annual meetings. For more than ten years this law was enforced, the only case, so far as I am aware, of such a regulation, and in this case due to causes entirely local.

In addition to the numerous camps of importance, and some degree of permanence, there were a countless number of evanescent camps, too temporary for any particular organization, except the occasional camp convention, or perhaps not even that if all went in an orderly manner. If a few prospectors found a small deposit of mineral they began to work it with but one idea in mind, that of obtaining as much as possible before any one else discovered their new camp. When this happened, the new comers suggested some definite size for claims, and by "mutual consent" and desire to compromise, they soon arrived at some understanding. In this primitive, informal way, many a group of men worked together for several weeks or months, in a mountain gorge, and practically made an even division of the gold there. In several cases on record the first workers laid out unusually large claims to which later groups of miners demurred, and the question was put to vote; thus, in one instance, reducing each of the eight original claims to one-fifth of its former size, but without any objection from the owners, who, even then, retained larger claims than later arrivals were able to secure.

Hundreds of large and small camps such as these which have been described were dotted over the mining counties of California, and the local land laws of hardly two of them agreed in every particular. The title they gave was, however, a complete one, for all practical purposes, and many

thousands of dollars were paid for "possessory rights," and the value of such "claims" was adjudicated by State Courts in a multitude of decisions of the highest importance in the complex history of mining jurisprudence. The "local law" became an accepted legal fact, upon which the ownership of placer claims, surface or deep, tunnel rights, water privileges and quartz ledges was absolutely dependent. The local land laws of the camps may therefore be traced through the long contests in the higher courts when witnesses were summoned to give the "common custom and usage" of the district, but no ordinary law report gives these points, and we must depend upon the meagre details in the newspapers of the period. Even from such sources the total mass of materials relating to camp transactions becomes large enough for a volume.

Almost every one of the early mining camps was swept by flames at various times during its existence, and to this fact the paucity of records concerning the exact wording of the first regulations of camps that have since become large and important towns is justly attributed. The wonder is that so many have been preserved in all their details, so that complete examples of all the leading forms of camp government can be found.

The laws which provided for the acquisition and continued possession of quartz lodes, leads, or ledges, were developed from the placer miner regulations, and varied quite as much. Under their protection, however, extensive companies were formed, and costly improvements undertaken, tunnels driven many feet through solid rock, shafts sunk on "quartz-claims," expensive roads constructed and mills of large size, fitted up with the latest machinery, were built, the value of the entire "plant" being dependent upon the local law of the camp or district. In many parts of California the quartz laws remained at this district stage of development until the habit of entering all valuable mines as United States Mineral Land, subject to purchase, and registered in the land-office,

gave the local recorders little to do. But in the four important counties of Nevada, Sierra, Tuolumne, and Sacramento the need of more complete organization, and greater uniformity than the district plan afforded was felt at an early period.

The miners of Nevada County assembled in November, 1852, at which time there was a great excitement throughout that region on the subject of quartz mines. They discussed the subject in all its bearings and decided to unify and simplify the codes of the separate districts bearing upon the holding of quartz claims; the desire to promote convenience and to encourage the advent of capital to further develop the mineral resources of the country were given as the urgent reasons for this step. They appointed a committee of practical miners to examine into the various rules and regulations in use elsewhere and report at another meeting. The convention then adjourned until December 20th, when it re-assembled, adopted after full discussion, with some changes of minor importance, the code of quartz laws presented for their approval, giving it jurisdiction over all districts within the county. This code remained in full operation in 1880, and at that time "had never been changed or abrogated," and it still remains as a basis for ownership of all unpatented quartz claims.

Sierra and Sacramento Counties were later in their adoption of a general system, the former in 1855, the latter in 1857. The miners of Tuolumne County assembled in 1858, and organized in the same manner. Similar meetings were held in several other counties. The size of claim allowed under these county codes varied greatly; in Nevada it was "one hundred feet upon the ledge with all dips, spurs, and angles;" in Sierra it was "two hundred feet on the lode with a width of two hundred and fifty feet on each side thereof," or a total width of five hundred feet; in other counties three hundred feet in length was not an uncommon regulation. The requirements in regard to work done, and manner of holding and registering a quartz claim, also varied greatly

in different counties, but the codes in this respect were based upon a greater regard for permanence than were the placer-camp local enactments, and they always provided for a full and complete title in the end, subject to no further work tax, and possessing a recognized commercial value everywhere. Advertisements of the time often read: "Requirement work completed; claim perfected according to District Law."

Innumerable instances of separate District quartz laws might be given; the county organization was by no means the rule. Placerville District, Eldorado County, adopted quartz regulations March 21, 1863, providing that each claimant "may hold two hundred feet on the ledge or lode, with all its dips, spurs and angles, and two hundred and fifty feet upon each side thereof." Seven days' work each month is required. In 1866, the number of recorded claims was 186. Mud Springs District in the same county adopted regulations April 7th, 1863, and allowed prospectors to hold 300 feet on the ledge and 300 feet on each side. The claim notice holds it for 20 days; and the recording of the same holds it for 90 days, before the expiration of which time labor to the amount of $250 must be spent upon actual development of the mine. Provisions are made for a board of three arbitrators. The regulations of Georgetown District, same county, adopted December 10th, 1866, allow a claim of 200 feet on the lode, and require the recorder to visit, measure and stake each claim, receiving fifty cents for the service, from each locator thereof. The expenditure of $500 in labor upon a claim shall hold it for two years, without further work.

Meanwhile a large number of important decisions of State Courts between 1851–1865 had shaped the varying local law relative to "claims," "forfeiture," "labor requirements," "ditches," "flumes," "water rights," and similar subjects, into a system of more universal application, and this process of judicial interference was destined to continue. Yet the very existence of the free miners' code had been in danger during the

early days of California. When John C. Fremont was State Senator he introduced a bill to establish police regulations throughout the entire mining region, and levy a small ground tax upon all miners. At that time—the winter of 1850–1851—such a measure would have destroyed the individuality of the local institutions just then rapidly developing in the energetic camps of the gold-seekers. A violent opposition to Fremont's plan was at once manifested; the miners never forgot his ill-timed suggestion. The discussion which followed in the Senate was long and excited. Many of the Senators favored a sale of western mineral lands in large tracts to the highest bidders. But it is chiefly to Senators Seward and Benton that the tacit acceptance by the nation of the policy of free mining, is clearly due. They insisted on delay, urging that haste was unnecessary, and ill-suited to the preponderant importance of the subject. A year later the local regulations of the Mining Camps had assumed such satisfactory control that further and further congressional delay appeared amply justified. Meanwhile, in 1851, the Legislature of California made its declaration after investigating the entire subject, accepted the rules and usages of the miners as evidence in all controversies, and yielded up, for a time, a part of its jurisdiction. The refusal of Congress to pass mining laws being accepted as a practical recognition of the principles for which the miners contended, they pushed forward with new zeal their daring explorations, their costly investments in machinery, in water ditches and tunnels, and other needs of their gigantic undertakings.

Placer mining was in its decadence, in most of the Sierra Counties of California, by 1856, but the chief features of district law continued much longer. Claims were so held until 1868 in parts of Lassen, Sierra, Nevada, Placer, Yuba, Butte, Shasta, Trinity, Calaveras, Mariposa, Sacramento, El Dorado, and several other counties, and over a territory several hundred miles in length and thirty or forty miles in width, the true auriferous belt of California. In many, perhaps in

all, of the then existing placer camps, these laws were in force so long as "surface diggings" lasted. When the placers were exhausted and deep mining took its place, the nature of the laws was essentially modified, and the distinctive features of the district organization were necessarily modified, in some cases entirely destroyed, long before the General Government passed its first Act relating to these mineral lands (1866). But, throughout the old mining region, wherever "surface claims" still remain, they are worked, or abandoned claims are "taken up" according to old District laws of the region. Quartz claims are still worked and held as simple possessory rights, until it seems desirable to claim and "enter" them under United States Law.

But, as the opportunity for the full enforcement of such laws passed away in California, those laws conquered new territory, and spread over more extensive areas than even that great Sierra Nevada land, furrowed by the channels of ancient pliocene rivers, and sown with flakes and nuggets of the precious metal. Old California miners introduced these "laws of the camp" into Oregon, Nevada, Arizona, Idaho and British Columbia. They sailed up the broad and mysterious Yukon, and, at the present time, are ruling, with firm and equal law, the camps of Alaska. They re-organized the mining districts of New Mexico, where, as long ago as 1830, placers had been mined by the Spaniards and Mexicans, each worker being allowed to claim a circle of ten paces in all directions from his pit, and only a specified amount of work serving to hold the "*tabor*," or claim, against rivals.[1] They even organized, under their free mining system, in South America, and the Central American States. Thus the most valuable features of this local land law were widely adopted in frontier society, and still exist in camps of the Rocky Mountains.

This gradual extension over so great a territory was the work of a number of years, greatly accelerated by occasional

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[1] Prince: "History of New Mexico," p. 242.

"stampedes" or "mining excitements," sometimes quartz, sometimes "placer diggings," but always resulting in exploration, and social organization of pioneer communities. It was natural that these prospectors from California should adopt to a great extent the regulations that California experience had shown desirable, with such local modifications as the nature of the locality, the water supply, the richness of the placers, or the character of the ledges seemed to make necessary. After district laws had been for some time in operation in all these new mineral regions, Territorial laws were passed, by legislatures, a majority of whose members were interested in mines, and the force and legality of the local codes were sustained, their more important features adopted and their usefulness much extended. The laws of Virginia City District, Nevada, including the famous Comstock ledge, were adopted at a miners' meeting on September 14th, 1859. "Two hundred feet on the lead," was the size allowed for a quartz claim, and each such claim must receive a name, and be properly recorded within ten days, after which three days of work each month were required to hold it. "Hill and surface claims" might be one hundred feet square, and "ravine and gulch claims" were "not more than one hundred feet wide," and extending "from bank to bank." The laws were quite long and minute, and were to be posted in two conspicuous places in the district, and another copy must be kept in the Recorder's office, subject, as was his "book of claim entry," to inspection whenever desired.

Reese River Mining District, Nevada, had a code adopted in 1864, at which time the district was nearly square, and twenty miles in extent from south to north. Fifty claim owners by signing a written notice of intention, could call a meeting of all the miners to depose the Recorder. That officer had the right to appoint a number of deputies, the district being so large. A special meeting to discuss amendments or changes in the organic law of the district, might be called at any time by a written application signed by

twenty-five miners, and fixing a time of meeting at a sufficient interval to permit general attendance. This rule differed from the California custom in many districts, which custom required those who for any reason desired a change in the laws, to summon personally all the miners in the place, so that they might attend if they chose. The full code of this district will be found in the Appendix.

The Territorial Legislature of Idaho, December 26, 1864, adopted a mining code, chiefly made up from previous local enactments in the districts that had been organized, chiefly by miners from California, but to some extent by persons from Colorado and Utah. One of its features was a "fine of not more than $1,000, or imprisonment of not more than ninety days, or both," for destroying claim notices or removing the boundaries to a miner's plot.

The Arizona Statute of 1865 contains 53 sections, some of them very long, and is drawn up with much legal skill and mining experience. It shows to a greater extent than in California, the survival of Mexican usages. Both Arizona and New Mexico exhibit marked traces of this influence. The statute of 1865, confirms and legalizes the previous acts of local districts. It uses the Spanish term "denunciation" of a claim, for the act of "taking it up," or "location," in the American phrase. It provides for placer mines of various sorts, for dry diggings and for quartz. It orders that the Recorder, when he examines a new claim for the purpose of describing and registering it, shall be permitted to take three specimens from different parts of the lode, and shall forward the same to the Territorial capital, to be kept until they are needed for the mineralogical cabinet "of the future University of Arizona." This is a very interesting provision, not found in any of the enactments of other Territories and States, and it would be pleasant to know that the plan had been carried out in Arizona.

The Oregon Statute of about the same time, recognized all the local laws "in relation to mining rights, placer claims and

town lots in mining camps;" it declared ditches and mining flumes to be real estate and mortgages of interests in placer mines to be "mortgages of chattels." The county clerk of each county was declared *ex officio* recorder of the mines, and ordered to appoint deputies in the several districts.

Montana, partly under the influence of Idaho enactments, partly under influences from the Mississippi Valley, organized multitudes of thriving camps in the great Helena gold basin. The years 1863, '64, and '65, were the palmy days of Montana placers. Vigilantes were forced to organize in order to save society from being trampled under foot by one of the most remarkable band of desperadoes that the Far West has ever known. No "dime novel" ever contained so thrilling chapters as the plain narrative of the destruction of "Plummer's Road Agents" by silent and secret Vigilantes, in the dead of the winter of 1863–4. The land laws of "Alder Gulch," one of the most famous of Montana Districts, were adopted at a mass-meeting of the miners shortly after the work of the Vigilantes had been accomplished, and protection to life and property secured. These laws appear in the Appendix to serve as an example of the Rocky Mountain camp laws, even as those of Columbia District, California, serve to illustrate the Sierra Camps.

We can still further understand the contradictory regulations of different Districts and Territories by observing how greatly the size of the "location" varied in the year 1866, when Congress began to legislate in regard to these mineral lands. By examination of the various local codes, and the statutes, acts, &c., of the States and Territories wherein mining had become a great industry, we find that in 1866 the size of the location allowed for quartz claims in various places named was as follows: Copperopolis District, California, 150 feet by 250 feet on each side of the vein; Ophir District, California, 100 feet by 100 feet on each side; Hardscrabble District, California, "fifty feet on the ledge for each location," amended to 200 feet soon after; Sierra County, 250 ft. x 250 ft.; Tuo-

lumne County, 150 ft. x 150 ft.; Nevada County, 100 ft. x 200 ft. in total width; Nevada State, 200 ft. x 200 ft.; Idaho, 200 ft. x 100 ft.; Oregon, 300 ft. x 150 ft.; Arizona, 600 feet square. Angel's District, California, had the "square," or Spanish location system, not allowing the owner to follow the "dips, spurs and angles" of his vein of ore, beyond the limits of his claim. The usual Spanish law allowed in 1866 an entry of 200 varas, or 550 feet, each way. The San Antonio District, Nevada, provided that any quartz claim opened to a depth of fifteen feet "forever remains the property of the claimant," and "can never be re-located." Laws of this sort, passed by a few districts, operated injuriously to the progress of the places, driving away numbers of workers and much capital. In addition to these requirements, Nevada required, in 1866, the excavation of 50 cubic feet of rock for each 200 feet of claim, each year. Oregon required $50 in work each year on each claim. Idaho made the work tax $100, which secured perpetual ownership. Arizona demanded a thirty-feet shaft, or a fifty-feet tunnel, to hold a claim for two years. Thirty days of work each year was needed after the expiration of that time. The minor regulations in all these State and Territorial Acts show the respect still paid to District customs and laws. Whenever placers were found, the regulations thereof at once assumed the general form of the early camp codes that we have been considering. As the specimens of laws printed in the Appendix to this pamphlet will sufficiently show, the changes that occurred were all in the line of larger claims, and the demands of capitalists and associations. The confinement of a prospector to one claim in a District fell slowly into disuse, as the prospector became more and more a man who "took up claims" for others as well as for himself.

In 1866, Congressional legislation sanctioned these local laws, whenever "not in conflict with the laws of the United States." The legislation of Congress in subsequent years has continued in the same general lines, has specified with increas-

ing definiteness the accepted modes of locating and holding mining claims, and the manner of obtaining a U. S. patent to mineral lands, always recognizing, however, the essential features of those laws framed in the early California Camps.

The permanent influence of the miners' civil code is further manifest in every portion of the mining law of the United States to-day. The statute of May 10th, 1872, and the "Revised Statutes" assert that mineral lands of the government are "open to exploration, occupation and purchase," under regulations "prescribed by law and according to the local customs of miners in the several mining districts." "Mining claims," it provides, "upon being in quartz or other rock," shall be governed "by the customs, laws and regulations in force at the date of their location." Previous locators are protected, and only ten dollars worth of work per year on each claim is required, whereas on locations made after the passage of the Act, one hundred dollars worth of work is essential. But the influence of local laws is evident throughout. No government title to mineral land can be obtained until the claimant proves "a compliance with the mining rules, regulations and customs of the mining district, state or territory in which the claim lies." When his papers, mining records, certificates of location, claim notices, local recorder's certificate, &c., are accepted by the government land officer, the claimant is allowed to purchase the tract at five dollars per acre for vein or lode claims, and half that sum for placer claims.

Thus, for many years, the process of establishing new camps, and the process of determining by judicial acts and decisions, in courts, legislatures and congress the relative value of those local laws, went on simultaneously, ever evolving from crudeness and seeming contradiction, the higher forms of mining jurisprudence. Everywhere, life and energy, working on a gigantic scale have plowed furrows into the institutional "bed rock" of Western Society; the placer-miner's rude "rocker" hewn from the great sugar-pines of the Sierra, the tall firs of the Cascades, the twisted spruces of the Black Hills, the snow-

weighted cedars of Kootenay, have cradled infant Territories, and young, lusty States.

Leaving this past and coming to the actual camp life of the present year, we discover that the region of the United States where the spirit of the earlier system is strongest, is that vast mountain realm which extends north of Nevada, Utah and Colorado.

> "In that desolate land and lone
> Where the Big Horn and Yellowstone
> Roar down their mountain path,"

where it is a wilderness of crags, narrow vales, and high plateaus for hundreds of miles west from the place that saw the heroic death of "the white chief with yellow hair," the "mining-camp" is the beginning of government. To-day, these camps cluster most thickly about that enormous mass of rugged ranges from which the Columbia, Peace, Fraser, Toiyepe, Marias, Madison, Clearwater, Saskatchewan, and dozens of other rivers flow, towards all points of the compass.

Here is probably the last hope for discoveries of wealth-bearing placers of any great extent, and here, last winter and spring, began that exciting "rush" to the Cœur d'Alene region, of which, after a summer of conflicting reports, the the result appears to be somewhat disastrous. The thousands that went thither, however, found gold in many places, and organized temporary camps. One on Pritchard and Eagle Creeks, Shoshone County, adopted its local code concerning claims, during the first week in March of the present year, 1884. The greatest of changes manifest from the common rules of elder camps was in the size of the claims. All locations on lodes of quartz, made so as to conform with the U. S. mining law of 1872, are to be 1,500 feet in length and 600 feet in width. All placer miners are allowed to locate twenty acres, so situated that neither dimension of the tract shall exceed eighty rods. The friendly and socialistic miners of the California Camps of the "Flush Period" have little part in

this later development; the capitalist has come to the front, and desires the whole of a quartz lode for his mill, or sufficient placer ground to justify the use of hydraulic methods. This is further shown by section third, which provided that authorized agents for capitalists may locate and record claims for them. Such a thing was never heard of in the early mining days on the Pacific coast, but the professional prospector and locator of claims for others is a prominent figure in western camps. "Give me a grub stake an' I'll locate ye a dozen good mines," is the appeal made to each "tender-foot" as a stranger is affectionately termed. Still another section of this Cœur d'Alene code allows men to take up one claim in each of the separate gulches where mineral is found.

In respect to claim work and assessment, another series of changes from the camps of twenty years ago, is manifest. One hundred dollars worth of work must be done within the first year after location, and twenty dollars worth of work for each month between June and November in subsequent years. Road making and cabin building are allowed to count on the assessment, at the rate of five dollars per day. A claim must be recorded within fifteen days after location, the district being so large that a shorter time-allowance would work hardship in many cases. The laws announced in regard to riparian rights and privileges, are much the same as those of thirty years ago. Miners may unite their claims for the purpose of more convenient working. This, also, is a common expedient. Most interesting of all, we observe that the system of arbitration still prevails. "Each disputant is to be allowed an equal number of arbitrators, and in case of a tie on the decision each arbitrator shall have power to call in an assistant." Twelve miners by ten days' written notice can call a meeting to change the laws of the District. The officers are "chairman" and "claim-recorder." This interesting code appears in the Appendix, and can be compared with those of earlier camps.

The laws of placer and quartz districts in the Saw Tooth Range, along the Salmon, and in the Great Bend of the

Columbia, districts actually organized within the past year, and in existence at the present time, might easily be added to those of the Cœur d'Alene miners, but they present few variations from the types already illustrated at sufficient length, Some of the more general aspects of the subject, however. seem to deserve attention. The outward spread of the camps, from their starting point in California, has been spoken of, and also the crystallization of crude local laws into more general enactments, which process the quotations in the Appendix, from decisions of State Courts, and from legislative acts will more clearly show. But the living force and influence of these local institutions thus created needs further emphasis and illustration, even at the risk of appearing to be "re-working the placer."

Over a period of thirty-six years of ardent and picturesque life the story of these small frontier settlements, called "Mining Districts," can be said to extend. We have seen to some degree the nature of their enactments, based upon the facts that the government allowed entry upon the public mineral lands of the United States, and that until 1866 nothing was done by congress to limit or define that right. Thus, for almost twenty years after the discovery of gold in the California gulches, the seekers for the precious metal were therefore left to their own resources in the matter of district laws. This was a creative opportunity such as the miners of no other race had possessed in modern times. Australian miners found that government officials and tax collectors, assize courts and the machinery of civilized society were at Ballarat, Bendigo and Mount Hope before the ground was fairly prospected. An efficient and satisfactory system was thus extended over the mines, but it was far from being the creation of the miners themselves. In California, on the contrary, so universal was the habit of self-organization, so generally acknowledged were the benefits of the system, that often the first thing that the dwellers at the county seat knew of a gold discovery was the news that a "new district had been formed"

and given a name, and that twenty or fifty claims, as the case might be, had been "taken up" the first day.

The curious and typical western character, not as yet quite understood in literature, and sadly caricatured in most cases, is not the claim owner, not the red-shirted miner in the camp —swinging his twelve-pound pick of glittering steel, four feet from tip to tip, the weapon for a Titan. Grand figure, indeed, is the jovial and "well-located" miner, but the true romance of the Far West lingers more with the miners whose claim is exhausted, or has failed to "pan out"; it lingers most of all with the wandering *prospector*, the pioneer of Western civilization who explores gulch after gulch, mountain range after mountain range, and toils across deserts, and poles his canoe up swift torrents, and rides his "*Cayuse*" into regions where Indians and grizzlies dwell, too often leaving his bones to keep guard in the wilderness.[1] But this typical "prospector," wedded to his free-mining customs, carries with him wherever he wanders the spirit of a law-abiding American citizen; and to-day, as of old, the first thought, when he finds a rich gulch and companions gather about him, is "camp-organization."

Another fact clearly evident to students of the institutional development of the Far West is the unusual permanence of the forms thus created. In more than three thousand Districts, many of them since grown into thriving cities, land laws of the nature we have been describing lie at the foundation of

[1] "Few know or have ever paused to think how many men have perished in these wild crusades searching after gold in remote localities. Embarking in frail crafts some have suffered shipwreck on their way to or back from Gold Bluff; some, overcome with exposure and fatigue, laid down and died in the gloomy woods of British Columbia. Some were swept to death over the rapids or engulfed in the treacherous eddies of the Fraser. Of the more adventurous not a few battled with Indians on the distant frontiers, while others, vainly struggling, sank under their burdens in the snows of the Sierra or perished from thirst far out on the deserts, where their uncoffined bones lie bleaching to this day." Editorial in "Mining and Scientific Press," San Francisco, January, 1884.

their polity. There were not, at any one time more than a thousand camps in existence, but where some perished others took their places, while the living link of camp with camp, district with district, code of the California of 1850 with code of the Montana of 1864, or of the Idaho of 1884, was none other than the wandering prospector, who had helped to make the laws of many such settlements.[1] Although the material at hand for a study of the mining camp land laws is sufficient to reveal their nature and relationship, yet the student of the period is forced at last to vain regret over the loss of the records of so many famous camps, the obscurity of the recollections of so many pioneers. Men who are making history, who are founding States, are not apt to display any zeal in treasuring up the documents which explain their deeds. If a camp were well-governed, what mattered it to the "Argonauts" whether a copy of their proceedings were preserved? Changes, removals, decay of camps, fires in mountain-towns, and a host of disasters have overtaken the crude and plain enactments of hundreds of communities. In general terms it may be said that the "rules and regulations" of nearly a hundred camps on the Pacific Coast or in the Rocky Mountain region, are still preserved in print or in manuscript, and that fragments of evidence concerning the usages of many other camps yet remain, buried in law

[1] It is impossible to describe in the space at our disposal, the great "mining excitements" that scattered broadcast the local laws of the early Districts. The following, however, were some of the most famous ones: Gold Lake, "the first stampede," summer of 1850; Gold Bluff, spring of 1851; Kern River, '54–'55, which took 5,000 miners to a region where most of them failed to pay expenses. Fraser River in 1858, took 18,000 men from California, and San Francisco real estate lost from 25 per cent. to 75 per cent. The terrible hardships of these bold explorers did not lessen the force of the Washoe excitement of two years later, when 12 mines on the Comstock paid dividends before 1865, and 2,988 mines did not. In 1869, came the White Pine rush, then the Bodie excitement, then Snake River, and others almost yearly till the last, that of the Cœur d'Alene, near the borders of British America.

reports and official documents. But there can be little doubt concerning the real sufficiency of this material. The general nature of camp law appears from the evidence accumulated in the course of this "study," hardly less than if that evidence consisted of tabulated reports from all the camps of the period. In itself the material which can be accumulated is ample, and only when the mass of what has perished is taken into consideration does it seem in anywise inadequate. For further evidence concerning the practical workings of the camp codes in relation to claims, and their use or forfeiture, we must examine the reports of travelers and take the testimony of the pioneers themselves. There is hardly an exception to the opinion that law and order prevailed, that "landed property" on the mining-camp basis was protected, that the attempt to make use the only title-deed was successful in all the early placers.

But we cannot pursue our subject into these broader fields. The social and intellectual aspects of the Mining Camp, and its relationship to the growth of organized society in the region where for a time it ruled paramount, belong to the book-maker, not to the pamphleteer, for this higher problem is complicated with elements contributed by alien races and different civilizations. The Camp, the Mining District, the commonwealth of freemen settled for a time in close companionship under the lofty snow peaks, breaking each other's bread, and sharing each other's blankets—*this* must be accepted as a potent factor in all the beginnings of social order, over an extent of territory five times the size of France. The roots of its growth lie deep-tangled in the soil of *Lex Saxonum*, and capitularies of Karl the Great; they spring more nearly from New England town-meetings and parish-meetings of the south, and settlers' associations of the west, but unlike the latter their influence has outlasted the conditions which gave them birth.

Of the land laws of these tent dwellers on Mormon Island, these cabin dwellers of Garrote, Cat Camp, Boneyard, Moccasin Creek, Big Humbug, Grizzly Scare, and later California

Districts bearing even more startling names, the least that history will say is that they were able to win recognition in courts of higher jurisprudence, and formed a controlling factor in the creation of American mining law. The Law Reports of California, Arizona, Nevada, Oregon, Colorado, Montana, Utah, Wyoming, and Idaho, bear evidence to this. There is hardly a mining case in all the volumes of these Reports that does not depend more or less upon the "land laws" of the district in which the disputed claims are situated. Rights over a plot of definite size, located according to local law, "staked" or otherwise marked, "registered," held by "work assessments" and never "abandoned;" rights over all running water not otherwise appropriated; rights over quartz ledges, even on the same ground before occupied by placer claimants; superior rights of the mineral seeker over the farmer or herdsman upon public lands — these are some of the "points" of local law that later courts from time to time enforced. A noteworthy example is in the case of the St. Louis Smelting and Refining Co. *vs.* Kemp & Nuttall, on appeal from the U. S. Circuit Court of Colorado, in which the U. S. Supreme Court this year rendered a decision of importance. A "Location" is held to be that quantity of mining ground which one person may legally acquire by location, in one body; a "claim" may embrace a dozen such locations acquired by purchase, provided they are contiguous, and the required annual expenditure may be upon any portion of the claim, or be at a distance from the claim itself, as when the labor is performed for the turning of a stream, or the construction of a flume.[1] In the noted case of Sparrow *vs.* Strong before the Supreme Court in 1865, Chief Justice Chase had said: "We know that the territorial legislature has recognized by statute the validity and binding force of the 'rules, regulations, and customs of the mining districts,' and we cannot shut our eyes to the public

[1] Decision given by Mr. Justice Field. Compare section 2,330 of the Revised Statutes of the United States.

history which informs us that under this legislation, and not only without interference from the general government, but under its implied sanction, vast mining interests have grown up." The decisions of the present time show the same respect for vested rights, although the passage in 1866 and 1872 of general laws, relative to the purchase or pre-emption of mineral lands of the United States, has greatly lessened the scope of "district law influence."

Nevertheless, the permanent place which such local law occupies is shown in the fact that in many cases at the present time men form a district, agree to abide by the United States mineral land laws, make a few minor land regulations, and keep up the district organization for other purposes. Prospectors and temporary holders of claims will always need local enactments to prevent quarrels, and these enactments they will continue to ordain in "miners' meetings" for many years to come. Further than this, the permanent influence of camp laws is clearly manifest in the organic life of such typical California mountain towns as El Dorado, once Hangtown; Nevada City, once Caldwell's Upper Store; Shasta City, once Redding Springs; Downieville, once a group of tents; Sonora, once a half-Mexican village. Each one of these places is now a county seat, and some are towns of several thousand inhabitants, but in most cases their incorporation as towns was done by the "miners of the district," while the mining industry was yet predominant, and their organization of to-day is more simple, more direct, and more dependent upon popular will than are most municipal systems.

So far as California is concerned, the truth remains that, long after the State was divided into counties and townships, the camps, whose usages we have discussed, were flourishing undisturbed under their local laws, and with their local recorders, or other presiding officers. Social, political, and literary elements of primal importance the study of this system reveals. The instinct of the novelist and poet has already seized hold of a few of the more effective and picturesque

features of the early camp life and district law, but a broad realm for true word artists is as yet unconquered. As a chapter in political science the place of the full story of these districts will be recognized when the right men, trained in schools of comparative institutional history, come to the writing of the growth and development of communities west of the Mississippi. The student of sociology will say as he investigates the organization of these early camps: "Here are glimpses of Jean Jacques Rousseau, and the 'Social Contract' theory; here is a harmless and altogether new form of socialism; here, for a brief space, all the world was 'lawless' according to strict legal interpretations, but wonderfully blessed with the essence and spirit of true self-government." Because more than a hundred thousand young, able-bodied American citizens, bent their backs to the miner's mighty toil, and for years "went camping," under skies bluer than Italy's, in the torrent-watered cañons of mountains loftier than the Alps; because of their brawny strength, their splendid vitality, their terrible earnestness, the laws they formulated in "miners'-meetings" held under no tent roof, but in open air, like the "*Guirimears*" of ancient Cornwall, were laws that have an abiding historical significance for all Americans.

# APPENDIX.

## Examples of Mining District Laws,

WITH QUOTATIONS FROM TERRITORIAL AND STATE ENACTMENTS, AND FROM REPORTS OF IMPORTANT TRIALS, SHOWING THE RESPECT PAID TO DISTRICT LEGISLATION.

### PLACER LAWS OF COLUMBIA DISTRICT, TUOLUMNE CO., CALIFORNIA, 1854.

*Article* I. The Columbia Mining District shall hereafter be considered to contain all the territory embraced within the following bounds: Beginning at the site of McKenny's old store on Springfield Flat, and running in a direct line to a spring on a gulch known as Spring Gulch—said gulch running in a southern direction from Santiago Hill. Thence in a direct line to the angle of the road leading from Saw Mill Flat to Kelly's Ranch, near Woods Creek. Thence along the ridge on the west of Woods Creek to the southern bounds of Yankee Hill district. Thence, following the ridge to the high flume between Columbia and Yankee Hill. Thence, following the New Water Company's ditch to Summit Pass. Thence in a direct line to the head of Experimental Gulch, including said gulch. Thence, following the upland to the head of Fox Gulch, and including said gulch. Thence, following the upland around the head of Dead Man's Gulch to the site of the Lannesdale Saw Mill. Thence in a direct line to the place of beginning.

*Art.* II. A full claim for mining purposes on the flats or hills in this district shall consist of an area equal to that of one hundred feet square. A full claim on ravines shall consist of one hundred feet running on the ravine, and of a width at the discretion of the claimant, provided it does not exceed one hundred feet.

*Art.* III. No person or persons shall be allowed to hold more than one full claim within the bounds of this district, by location; nor shall it consist of more than two parcels of ground, the sum of the area of which shall not exceed one full claim; *Provided* that nothing in this article shall be so construed as to prevent miners from associating in companies to carry on

mining operations, such companies holding no more than one claim to each member.

*Art.* IV. A claim may be held for five days after water can be procured at the usual rates, by distinctly marking its bounds by ditches, or by the erection of good and sufficient stakes at each corner, with a notice at each end of the claim, followed by the names of the claimants, and by recording the same according to the provisions of article ten.

*Art.* V. When a party has already commenced operations upon a claim, and is obliged to discontinue for want of water, or by sickness or unavoidable accident, the presence upon the ground of the tom and sluices, or such machines as are employed in working the claim, shall be considered as sufficient evidence that the ground is not abandoned, and shall serve instead of other notice; the bounds of the claim being still defined.

*Art.* VI. Claims shall be forfeited when parties holding them have neglected to fulfil the requirements of the preceding articles, or have neglected working them for five days after water was procurable at usual rates, unless prevented by sickness or unavoidable accident, or unless the miners have provided by law to the contrary. [This peculiar clause may be construed to mean that if the miners thought the owners of "water-privileges" were charging exorbitant rates, they could temporarily enact that cessation of work should not cause forfeiture].

*Art.* VII. Earth thrown up for the purpose of working shall not be held distinct from the claim from which it was taken, but shall constitute part and parcel of such claim.

*Art.* VIII. Water flowing naturally through gold-bearing ravines shall not be diverted from its natural course without the consent of parties working on such ravines, and when so diverted it shall be held subject to a requisition of the parties interested.

*Art.* IX. No Asiatics shall be allowed to mine in this district.

*Art.* X. Any or all claims now located or that may hereafter be located and worked, can be laid over at any time, for any length of time not to exceed six months, by the person or persons holding the same appearing before the Recorder of the District, with two or more disinterested miners, who shall certify over their own signatures that the said claim or claims cannot be worked to advantage, and by having the same recorded according to the laws of the District; and by paying a fee of one dollar: *Provided*, that each claimant shall sign the record in person or by a legal representative, stating at the time that said claim is held by location or by purchase.

*Art.* XI. There shall be a recorder elected who shall hold his office for one year from the date of his election, or until his successor be elected, whose duty it shall be to keep a record of all miners' meetings held in the district; to record all claims; and to call miners' meetings by posting notices throughout the district whenever fifteen or more miners shall present him with a petition stating the object of the meeting: *Provided*, that

in the absence of the Recorder the above-named number of miners shall not be disqualified to call such a meeting. He shall at all proper times keep his record book open for inspection.

*Art.* XII. No company or companies of miners who may occupy the natural channel through any gulch or ravine for a tail-race or flume shall have the exclusive right to such a channel, to the exclusion of any company of miners who may wish to run their tailings into the same.

*Art.* XIII. Any party or parties locating claims in gulches, where such flumes or tail-races exist, shall first confer with the owners of the same, . . . and in case of disagreement each party shall choose two disinterested miners and the fourth shall choose a fifth, who may determine the matter or matters in dispute.

*Art.* XIV. Any company or companies of miners shall have the right to run their water and tailings across the claim or claims below them, if it can be done without injury to the lower claims.

*Art.* XV. The limits of this District shall not be altered without the consent of a regularly called mass-meeting of the miners of the District.

*Art.* XVI. No miners' meeting held outside of [the town of] Columbia for the purpose of making laws to govern any portion of the district, or to amend these laws in any manner, shall be considered as legal.

*Art.* XVII. All mining laws of this district made previous to the foregoing are hereby repealed. [Passed in 1854, and in full force in 1866].

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## PLACER LAWS OF ALDER GULCH, MONTANA, 1864.

### Preamble.

*Whereas*, the laws now in force in Fairweather District, Madison County, Montana, have proved insufficient to protect the rights of the miners of said district;

And whereas the rights and interests of the miners of the district are of such a nature as not to admit of a resort to the tedious remedy of the ordinary process of law for every violation of those rights;

Now, therefore, we, the miners of said district in public meeting assembled, in pursuance of legal notices for the purpose of defending our rights and duties, and the protection of our several interests, do hereby resolve and declare that the rules and provisions following shall be the law of Fairweather district from this date of enactment, viz: September 16th, 1864.

### Article A.

*Section* 1. The officers shall consist of a President and Secretary who shall hold their offices for the term of six months, or until their successors are duly elected and enter upon the discharge of the duties of their office.

*Sec.* 2. It shall be the duty of the President to call a meeting of the miners of the district at any time on the written application of five claim

holders of the district of which he shall give three days' notice . . . by written or printed advertisements . . . posted at three of the most public places in the district, and he shall preside over the meeting.

*Sec.* 3. It shall be the duty of the Secretary to attend all meetings . . . keep a true record . . . and file the same with the County Recorder.

*Sec.* 4. After suit commenced in any case wherein the title to a claim is called into question, neither party shall be held liable to represent said claim during the pendency of litigation, but the same shall be deemed to be represented in favor of the real owner by operation of law.

[*Sections* 5, 6, 7 and 8 refer to claims held by purchase, by lease or by pre-emption, authorizing all three forms when properly recorded.]

*Sec.* 9. Every claim shall be considered as pre-empted upon which the pre-emptor, a purchaser, shall, by himself, his agent, or hired hands, perform three full days' work in each week . . .; *Provided*, that each and all of such claims be recorded.

[*Sections* 10 and 11 define and limit the rights of co-partners, in claims and ditch enterprises.]

*Sec.* 12. The absence of any person from the district shall not impair or invalidate his rights: *Provided*, his interests are represented by his partners, agents, or men in his employ.

*Sec.* 13. The rights of a sick member shall be respected during his illness, and the certificate of a physician shall be sufficient evidence of such illness.

*Sec.* 14. Any miner who shall have expended $600 on his claim, or who, for want of money for opening the same, is unable to represent it according to law, shall have the privilege of working on any other claim in the district in order to raise money to enable him to fully open up his own claim: *Provided*, he shall put up notices on his own claim stating where he is at work, and his rights shall be respected during the time he is so at work for others.

*Sec.* 15. It shall and may be lawful for any person or company to dig a drain ditch through the claim of any person or persons and . . . [they] shall have a lien upon any and all such claims thoroughly drained for a just and equal proportion of the cost thereof . . .

*Sec.* 16. The water in any creek or gulch shall belong exclusively to the miners of that creek or gulch.

*Sec.* 17. Each gulch claim shall be entitled to one sluice-head of water, of not less than twenty inches . . . and such additional quantity as may be necessary . . . if not used to the injury of others.

*Sec.* 18. The interest of the holder or holders of any creek or gulch claim is hereby declared to be a chattel interest, consisting of the right to the possession of the land and water thereupon inseparable and indivisible, except by the consent of the party or parties in interest made in due form of law, and then only to such an extent as shall not impair nor infringe upon the rights of others.

*Sec.* 19. No person or persons in company shall have the right . . . to claim and hold an exclusive right or privilege in or to any portion of the water in any creek or gulch in the district . . . and any ditch, pipe, channel, flume or other means of conveyance . . . by which water may be directed from its original channel without leaving in creek or gulch the quantity of water belonging to each claim, is hereby declared a public nuisance, and may be abated immediately . . . in accordance with the laws of this Territory.

[*Sections* 20, 21, 22, and 23, all refer to unlawful obstructions, tailings, leakage from flumes, and protection of drain ditches. The remaining four sections of this Article ordain that claims not earned according to the district customs shall be forfeited on November 1st, of each year, and liable to preemption by any person at any time before May 1st, when work in the district was commenced; they repeal all laws, parts of laws, and rules, customs, and regulations, in conflict with the present code, and they ordain that the new laws shall go into immediate effect.]

ARTICLE B.

*Section* 1. Bar mining claims shall consist of 100 feet up and down the gulch or creek, and running back the width of the bar.

*Sec.* 2. Creek claims shall be 100 feet in length, and including the bar, or creek bottom, and the head of the stream.

*Sec.* 3. All discovery claims shall be safely held whether worked or not.

*Sec.* 4. The centre of the creek shall be the line.

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## QUARTZ LAWS OF REESE RIVER DISTRICT, NEVADA TERRITORY, 1864.

*Section* 1. The district shall be known as the Reese River Mining District, and shall be bounded as follows, to wit: On the north by a distance of ten miles from the Overland Telegraph Line, on the east by Dry Creek, on the south by a distance of ten miles from the Overland Telegraph Line, and on the west by Edward's Creek, where not conflicting with any new districts formed to date.

*Sec.* 2. There shall be a Mining Recorder elected on the first day of June next, for this district, who shall hold office for one year from the seventeenth of July next, unless sooner removed by a new election, which can only be done by a written call, signed by at least fifty claim holders, giving notice of a new election to be held after said notice shall have been posted and published for at least twenty days, in some newspaper published in or nearest this district; and the Recorder shall be a resident of this district.

*Sec.* 3. It shall be the duty of the Recorder to keep in a suitable book or books, a full and truthful record of the proceedings of all public meetings; to place on record all claims brought to him for that purpose, when such

claim shall not interfere with or affect the rights and interests of prior locators, recording the same in the order of their date, for which service he shall receive One Dollar ($1) for each claim recorded. It shall also be the duty of the Recorder to keep his books open at all times to the inspection of the public; he shall also have the power to appoint a deputy to act in his stead, for whose official acts he shall be held responsible. It shall also be the duty of the Recorder to deliver to his successor in office all books, records, papers, etc., belonging to or pertaining to his office.

*Sec.* 4. All examinations of the record must be made in the full presence of the Recorder or his deputy.

*Sec.* 5. Notice of a claim of location of mining ground by any individual, or by a company, on file in the Recorder's office, shall be deemed equivalent to a record of the same.

*Sec.* 6. Each claimant shall be entitled to hold by location two hundred feet on any lead in the district, with all the dips, spurs, and angles, offshoots, outcrops, depths, widths, variations, and all the mineral and other valuables therein contained—the discoverer of and locator of a new lead being entitled to one claim extra for discovery.

*Sec.* 7. The locator of any lead, lode, or ledge in the district shall be entitled to hold on each side of the lead, lode, or ledge located by him or them, one hundred feet; but this shall not be construed to mean any distinct or parallel ledge within two hundred feet other than the one originally located.

*Sec.* 8. All locations shall be made by a written notice posted upon the ground, and boundaries described, and all claimants' names posted on the notice.

*Sec.* 9. Work done on any tunnel, cut, shaft, or drift, in good faith, shall be considered as being done upon the claim owned by such person or company.

*Sec.* 10. Every claim (whether by individual or company) located, shall be recorded within ten days after the date of location.

*Sec.* 11. All miners locating a mining claim in this district, shall place and maintain thereon a good and substantial monument or stake, with a notice thereon of the name of the claim, the names of the locators, date of location, record, and extent of claim. It is hereby requested that owners in claims already located do comply with the requirements of this section.

*Sec.* 12. The Recorder shall go upon the ground with any and all parties desiring to locate claims, and shall be entitled to receive for such service One Dollar for each and every name in a location of two hundred feet each.

*Sec.* 13. It is hereby made the duty of the Mining Recorder upon the written application of twenty-five miners, to call a meeting of the miners of the district by giving a notice of twenty days through some newspaper published in the Reese River District, which notice shall state the object of the meeting, the place and time of holding the same.

*Sec.* 14. The laws of this district passed July 17th, 1862, are hereby repealed.

*Sec.* 15. These laws shall take effect on and after June 4th, 1864.

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## PLACER LAWS OF CŒUR D'ALENE DISTRICT, IDAHO, 1884.

The local laws of the Cœur d'Alene mining district located on Pritchard and Eagle creeks, Shoshone county, Idaho Territory, adopted by the first permanent miners in that region, were as follows:

*Section* 1. All locations on lodes of veins of quartz to conform with the United States laws of May 10, 1872, as nearly as practicable, viz: Fifteen hundred feet (1500) in length, by six hundred feet in width.

*Sec.* 2. Placer mining claimants shall be allowed twenty acres, to be located so that the length shall not exceed eighty rods.

*Sec.* 3. Each location shall be represented by the locator or his authorized agent in locating and recording.

*Sec.* 4. No person shall be restricted to one claim, but may locate one claim in any stream or gulch where vacant ground may be found. But no person shall be allowed to locate more than one claim on the same stream or gulch. Persons shall not be prohibited from holding claims acquired by purchase.

*Sec.* 5. Claimants shall have one year from the first of January succeeding the date of location to work their first annual assessment which shall be one hundred dollars. Each year thereafter claims shall be represented by twenty dollars' worth of labor each month after the first of June until the first of November after the first year's assessment. Furthermore, all claims shall be considered laid over from the first of November to the first of June. All necessary work, such as making roads or trails, building houses, or any improvements in opening or working a claim, will be allowed five dollars per day as assessment labor.

*Sec.* 6. Claimants will be required to record their claims in the district record within fifteen days from the date of location.

*Sec.* 7. The oldest or first claimants shall have the first privilege of water, but shall not prohibit others from using the surplus water, and all claimants shall be required to return the water to the channel of the stream for the benefit of those below.

*Sec.* 8. Several miners may form a company for the purpose of opening and working mines in placer claims, when such claims are contiguous, and the labor performed by said company shall represent their several claims, although the amount of labor for the convenience of opening and working may be done on one claim.

*Sec.* 9. Difficulties arising between parties in the mining district shall be settled by arbitration, each disputant to be allowed an equal number of

arbitrators, and in case of a tie on decision said arbitrators will have power to call an assistant.

*Sec.* 10. All claims located prior to the date of the adoption of these by-laws shall be respected just the same as those made after said date.

*Sec.* 11. The records of the Cœur d'Alene Mining District, in Shoshone county, Idaho Territory, shall be kept at the house of A. J. Pritchard, Recorder, near the confluence of the Eagle and Pritchard creeks.

*Sec.* 12. On the written application of twelve or more miners, the Chairman shall cause three notices to be posted up in three conspicuous places, giving ten days' notice of a meeting, said notices to specify the object and business to be transacted at such meeting. To make any changes in the present by-laws between the 1st of November and the 1st of June the following year shall be illegal.

*Sec.* 13. These laws shall take effect from this date, and any laws or regulations previously enacted that conflict with these laws shall be considered repealed.

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## Judicial Decisions upon Local Rules, Usages and Customs.

"The Code permits evidence of the customs established in mining claims, which implies a permission on the part of the State to the miner to seek whatever he choose in the mines for the precious metals, and extends to him whatever right the State might have to the mineral when found."—*Case of McClintock vs. Bryden*, 5 *Cala. Reports*, *p.* 100.

"The custom of miners is entitled to great if not controlling weight."—*Brown vs.* "49 *and* 56" *Quartz Mining Co.*, 15 *Cala. Rep.*, 160.

"The quantity of ground a miner can claim by location or prior appropriation for mining purposes may be limited by the mining rules of the district."—*Prosser vs. Parks*, 18 *Cala.*, 47.

"The fact that mining laws and regulations were passed on a different day from that advertised for a meeting of miners, does not invalidate them. Courts will not inquire into the regularity of the modes by which these local legislatures or primary assemblages act. They must be the judges of their own proceedings. It is sufficient that the miners agree—whether in public meeting or after due notice—upon their local laws, and that these are recognized as the rules of the vicinage, unless fraud be shown, or other like cause for rejecting the laws."—*Gore vs. McBrayer*, 18 *Cala.*, 582.

"A mining claim must be in some way defined as to limits before the possession of the work upon part gives possession to any more than the part

so possessed or worked. But when the claim is defined, and the party enters in pursuance of mining rules and customs, the possession of part is the possession of the entire claim."—*Atwood vs. Fricot*, 17 *Cala.*, 27.

"Although mining ground . . . may be located in the absence of local regulations, yet the extent of such location is not without limit. The quantity taken must be reasonable, and whether it be so or not will be determined by the general usages and customs prevailing upon the subject. If an unreasonable quantity be included . . . the location will not be effectual."—*Table M. T. Co. vs. Stranahan*, 20 *Cala.*, 198; 21 *Cala.*, 548.

"Mining laws, when introduced as evidence are to be construed by the Court, and the question whether, by virtue of such laws a forfeiture had occurred is a question of law, and cannot be submitted to a jury."—*Fairbank vs. Woodhouse*, 6 *Cala.*, 433.

"A party having abandoned his claim will not be permitted to . . . re-assert or resume his former interest to the prejudice of those who may have afterwards appropriated it."—*Davis vs. Butler*, 6 *Cala.*, 511.

"The book in which claims are recorded by resolution of the miners of a district may be admitted as evidence."—*McGarrity vs. Byington*, 12 *Cala.*, 426.

"Mining claims are held by possession, but that possession is regulated and defined by usage and by local and conventional rules, and the "actual possession" which is applied to agricultural lands cannot be required in case of a mining claim."—*Atwood vs. Fricot*, 17 *Cala.*, 37.

"A miner is not expected to reside on his claim, nor build on it, nor cultivate it, nor enclose it. He may be in possession by himself, or his agents, or servants."—*English vs. Johnson*, 17 *Cala.*, 107.

"From an early period of our State's jurisprudence we have regarded claims to public mineral lands as titles. . . ."—*Merritt vs. Judd*, 14 *Cala.*, 64.

"A writing is not necessary to vest or divest title on taking up a mining claim. The right of the miner comes from the mere appropriation of the claim made in accordance with the mining rules and customs of the vicinage." "The right to mining ground rests on possession only, and rights of this character need no conveyance other than a transfer of possession." "The State Act of April 13th, 1860, permits bills of sale without seal to pass title." "Transfer may as well be by simple agreement as by deed, the vendee taking possession." Cases of *Jackson vs. Feather River & Gibsonville Water Co.*, 14 *Cala.*, 22; of *Gore vs. McBrayer*, 18 *Cala.*, 582; of *McCarron vs. O'Connell*, 7 *Cala.*, 152; of *Watt vs. White*, 13 *Cala.*, 324.

"The public mineral lands of this State are open to every person who chooses to enter upon them for the purpose of mining. But this rule has its limitations to be fixed by the facts in each particular case. Certain

rights of property, though not founded on a legal title, will be protected against the miner,—such as houses, orchards, vineyards and growing crops." "The right of the agriculturist to use and enjoy public lands must yield to the right of the miner when gold is discovered in the land." The agriculturist "has settled upon such lands subject to the rights of the miners who may proceed in good faith to extract any valuable metals that may be found in the lands so occupied by the settler." "The right to so enter, and mine carries with it the right to whatever is indispensable for the exercise of this mining privilege,—as the use of the land, and such elements of the freehold as water." "It carries with it the right to the wood and timber growing theron."—See cases of *Smith vs. Doe*, 15 *Cala.*, 100; *Clark vs. Duval*, 15 *Cala.*, 88; *Tartar vs. Spring Creek W. & M. Co.*, 5 *Cala.*, 395; *Lentz vs. Victor*, 17 *Cala.*, 271.

"The first appropriator of water for mining purposes is entitled to have the water flow without material interruption in its natural channel."—*Bear River and Auburn Water and Mining Company vs. New York Mining Co.*, 8 *Cala.*, 333.

"Surveys, notices, stakes, and the blazing of trees, followed by work and labor, without abandonment, will in every case give title to unclaimed water on public lands over after-claimants."—*Kimball vs. Gearheart*, 12 *Cala.*, 27.

"The interest of the occupant of a mining claim is property, and is liable to taxation. The 'claim' is property and . . . may be taken and sold under execution."—*Cases of McKeon vs. Bisbee*, 9 *Cala.*, 137; *California vs. Moore*, 12 *Cala.*, 56.

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## Legislative Acts.

"In all actions respecting mining claims, proof shall be admitted of the customs, usages, or regulations established and in force in the mining district embracing such claim; and such customs, usages or regulations, when not in conflict with the laws of this Territory, shall govern the decision of the action in regard to all questions of location, possession, and abandonment."—*Laws of Nevada Territory, approved Nov.* 29, 1861. *Similar laws in Oregon, Arizona, Idaho, Montana and Colorado.*

"All conveyances of mining claims heretofore made by bills of sale or other instruments in writing, with or without seals, recorded or unrecorded, shall be construed in accordance with the lawful local rules, regulations, and customs of the miners in the several mining districts of this Territory; and if heretofore regarded valid and binding in such districts shall have the same force and effect between the parties thereto as *prima facie* evidence of sale, as if such conveyances had been made by deed under seal."

"The location and transfers of mining claims heretofore made shall be established and proved, in contestation before Courts, by the local rules, regulations, or customs of the miners in the several mining districts of the Territory in which such locations and transfers were made."—*Laws of Nevada, Dec.* 12, 1862.

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## Extracts from United States Mining Law.

*Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled,* That all valuable mineral deposits in land belonging to the United States, both surveyed and unsurveyed, are hereby declared to be free and open to exploration and purchase, and the lands in which they are found to occupation and purchase, by the citizens of the United States, and those who have declared their intention to become such, under regulations prescribed by law, *and according to the local customs or rules of miners, in the several mining districts,* so far as the same are applicable and not inconsistent with the laws of the United States.

*Sec.* 2. That mining claims upon veins or lodes of quartz or other rock in place, bearing gold, silver, cinnabar, lead, tin, copper, or other valuable deposits heretofore located, *shall be governed, as to length along the vein or lode, by the customs, regulations and laws in force at the date of their location.* A mining claim located after the passage of this act, whether located by one or more persons, may equal, but shall not exceed, one thousand five hundred feet in length along the vein or lode; but no location of a mining claim shall be made until the discovery of the vein or lode within the limits of the claim located. No claim shall extend more than three hundred feet on each side of the middle of the vein at the surface, nor shall any claim be limited, by any mining regulation, to less than twenty-five feet on each side of the middle of the vein at the surface, except where adverse rights existing at the passage of this act shall render such limitation necessary. The end lines of each claim shall be parallel to each other.

*Sec.* 3. That the locators of all mining locations heretofore made, or which shall hereafter be made, on any mineral vein, lode, or ledge, situated on the public domain, their heirs and assigns, where no adverse claim exists at the passage of this act, so long as they comply with the laws of the United States and the State, Territorial, *and local regulations, not in conflict with said laws of the United States, governing their possessory title,* shall have the exclusive right of possession and enjoyment of all the surface included within the lines of their locations, and of all veins, lodes, and ledges, throughout their entire depth, the top or apex of which lies inside of such surface lines extended downward vertically, although such veins, lodes, or ledges may so far depart from a perpendicular in their course downward as to extend outside the vertical side-lines of said surface locations: *Provided,* that their

right of possession to such outside parts of such veins or ledges shall be confined to such portions thereof as lie between vertical planes drawn downward as aforesaid, through the end-lines of their locations, so continued in their own direction that such planes will intersect such exterior parts of said veins or ledges.

*Sec.* 5. That the *miners of each mining district* may make rules and regulations, not in conflict with the laws of the United States, or with the laws of the State or Territory in which the district is situated, *governing the location, manner of recording, amount of work necessary to hold possession of a mining claim,* subject to the following requirements: The location must be distinctly marked on the ground so that its boundaries can be readily traced. All records of mining claims hereafter made shall contain the name or names of the locators, the date of the location, and such a description of the claim or claims, located by reference to some natural object or permanent monument, as will identify the claim. On each claim located after the passage of this act, and until a patent shall have been issued therefor, not less than one hundred dollars' worth of labor shall be performed or improvements made during each year. On all claims located prior to the passage of this act, ten dollars' worth of labor shall be performed or improvements made each year for each one hundred feet in length along the vein, until a patent shall have been issued therefor; but where such claims are held in common, such expenditure may be made upon any one claim; and upon a failure to comply with these conditions, the claim or mine upon which such failure occurred shall be opened to relocation in the same manner as if no location of the same had ever been made.—*Act of May 10th,* 1872.

The legal form of Location Notice is as follows:

Notice is hereby given that the undersigned, having complied with the requirements of the mining act of Congress, approved May 10, 1872, and the *local customs, laws and regulations,* has located fifteen hundred linear feet on ..... lode (twenty acres of placer mining ground) situated in ..... mining district, ..... county, ....., and described as follows: (Describe the claim accurately, by courses and distances, if possible; by legal subdivisions, if a placer claim is located on surveyed land.)

Located.....188... .....

Recorded.....188... (Name of locator.)

[Record of location notices, in absence of a District Recorder, should be made with the proper Recorder of Deeds for the county wherein the claim is situated. The affidavits of at least two disinterested persons that all the requirements of the Congressional and *local laws* have been complied with, should also be recorded.]

The legal form for "proof of possession" where there is no "written title" contains the following: (U. S. Mining Laws, G. F., 1875, Form K.)

"That said mine was *located and has been possessed and worked in accordance with the customs and usages of miners in said district,* and in conformity with the rules and regulations regulating the location, holding and working of

mining claims, in force and observed in the State of ..... That there are no written records known to deponent existing in said mining district. That affiant is credibly informed and believes that the ..... mine was located in the year 18..., and that if any record was made of said location, and of the names of the locators, the same has not been in existence for a long number of years past, and that by reason thereof the names of locators cannot now be ascertained, and no abstract of title from locators to the present owner can be made. That the possession of applicant and his predecessors in interest of said ..... mine, has been actual, notorious, and continuous, to the positive knowledge of deponent, since his residence in said mining district, *and that such possession has been perfected and maintained, in conformity with mining usages and customs, and has been acquiesced in and respected by the miners of the said district.*"

The legal form for a "protest and adverse claim" contains the following: (Form O.)

"That said lode (or placer claim) is in the ..... Mining District.

"That on the day of its location the premises hereinafter described were mineral lands of the public domain, and entirely vacant and unoccupied, and were not owned, held, or claimed by any person or party as mining ground or otherwise, and that while the same were so vacant and unoccupied and unclaimed, to wit: On the ..... day of ..... 18..., (name locators), each and all of them being citizens of the United States, entered upon and explored the premises, discovered and located the said ..... lode, and occupied the same as mining claims. That said locators, after the discovery of said ..... lode, drove a stake on said lode on the discovery claim, erected a monument of stone around said stake, and placed thereon a written notice of location, describing the claim so located and appropriated, giving the names of the locators and quantity taken by each, and *after doing all the acts and performing all the labor required by the laws and regulations of said ..... mining district and territory of .....*, the locators of said lode caused said notice to be filed and recorded in the proper books of record in the Recorder's office in said district on the ..... day of ....., 18...

"And affiant further says, that said locators, *in all respects, complied with every custom, rule, regulation, and requirement of the mining laws, and every rule and custom established and in force in said ..... mining district, and thereby became and were owners (except as against the paramount title of the United States) and the rightful possessors of said mining claims and premises.*

"And this affiant further says, that *said locators proved and established to the satisfaction of the Recorder of said ..... mining district, that they had fully complied with all the rules, customs, regulations, and requirements of the laws of said district, and thereupon the said Recorder issued to the locators of said ..... lode, certificates confirming their titles and rights to said premises.*"

[Points bearing on local law italicized in above quotations from U. S. mining law.]

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OF

# Johns Hopkins University Studies

IN

# HISTORICAL AND POLITICAL SCIENCE.

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